

## TITLE III: ADMINISTRATION

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### CHAPTER 30: ELECTED OFFICIALS; ORDINANCES

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### **MAYOR**

#### **§ 30.01 ELECTION; QUALIFICATIONS; TERM.**

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

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

#### **§ 30.02 POWERS AND DUTIES.**

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

(B) The mayor shall have power to veto or sign any ordinance passed by the city council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the city council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the City Clerk of these veto in writing. The clerk shall notify the city council in writing of the mayor's veto. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective

without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the council over the veto as in other cases. (Neb. RS 17-111)

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

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

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

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

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

(H) The Mayor shall receive requests for budget items from each Council Member or Council Member acting as a liaison official prior to May 1st of each year. The Mayor shall submit a proposed budget and appropriations ordinance to the President of the Council prior to June 1st of each year. Utility rates and percent of cost recovery shall be included within the proposed budget requirement submitted to the Governing Body by the Mayor.

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

(2) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State of Nebraska or as the Council may by resolution confer upon the Mayor consistent with law.

### **§ 30.03 VACANCY.**

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

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

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

### ***MUNICIPAL ADMINISTRATOR***

#### **§ 30.15 MUNICIPAL ADMINISTRATOR; DUTIES.**

The Municipal Administrator shall be the administrative head of Municipal Government, under the direction of the Mayor, to carry out the policies and directions which the Governing Body shall determine. In addition to the responsibilities set forth elsewhere, and not as a limitation thereof, it shall be the duty of the Municipal Administrator to: attend all meetings of the Governing Body and ensure proper implementation and compliance with all policies established by the Governing Body; timely advise the Governing Body regarding the Municipal operations and matters affecting the well-being of the Municipality; receive and deliver communications on behalf of the Municipality, Mayor, and City Council; receive and timely act upon citizen complaints; retain and consult with external professionals with approval of Mayor; supervise and provide general assistance to all Municipal boards, commissions, and committees, and attend all such meetings when so directed by the Mayor; ensure and supervise proper maintenance of all official Municipal documents and records; ensure compliance with all applicable laws, regulations, and ordinances; organize, direct, coordinate, and ensure proper implementation of all plans and programs for Municipal Departments; directly supervise and assist Municipal Departments in the general operation, meet regularly with departments to discuss performance and general administrative duties, and regularly report to the Mayor regarding such; directly supervise all Municipal office personnel; serve as the Municipal human resources director, coordinating all employment application procedures and interviews, implementing and maintaining a personnel evaluation program with the assistance of maintenance supervisor, preparing and submitting to the Mayor written performance evaluations for all City personnel at least once annually, supervising and maintaining payroll programs in compliance with all applicable laws, disciplining and terminating Municipal employees with approval of the Mayor, and ensuring proper administration of all employee benefit programs; maintain all Municipal financial records and reports; serve as City purchasing agent for all departments; directly supervise, in consultation with maintenance supervisor, the maintenance of perpetual inventories for Municipal departments; serve as Municipal ADA Compliance Officer; direct and coordinate Municipal safety and risk management activities; direct budget preparation and ensure submission of periodic budget reports to Governing Body; recommend to Governing Body the adoption of such measures and ordinances as are deemed necessary or expedient; and perform all other such duties and exercise such other powers as may be delegated to the Municipal Administrator from time to time by ordinance or resolution of Mayor and City Council. (*Ord. No. 98-17, 11/16/98; 15-05, 8/4/15*)

## ***CITY COUNCIL***

### **§ 30.30 ELECTION; TERMS; QUALIFICATIONS.**

(A) The City Council shall consist of four members who shall be elected by ward on a nonpartisan ballot. The City shall have two (2) wards established pursuant to the precinct lines created by the Lancaster County Election Commissioner. Ward 1 shall consist of the voting precincts within the corporate limits north of Heywood Street. Ward 2 shall consist of the voting precincts within the corporate limits south of Heywood Street. Each ward shall have two members of the Council.

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

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

### **§ 30.31 WARDS.**

The City shall redistrict as often as necessary using the most recent federal decennial census to ensure that each ward is substantially equal in population.

### **§ 30.32 PRESIDENT; ACTING PRESIDENT.**

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

1. Act as liaison between the legislature and administrative areas of the City (Mayor-Council).
2. Aid the Mayor in budgetary requests in the area of Council and Committee programs and administrative costs.
3. Liaison of Council policy and procedure with the Mayor.
4. Review the agenda and requirements (see agenda).

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

(C) The President and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the City as if done by the Mayor. (Neb. RS 17-148)

### **§ 30.33 VACANCY; GENERAL PROVISIONS.**

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

(B) (1) Except as otherwise provided in subsection (C) or (D) of this section or Neb. Rev. Stat. 32-568, vacancies in the City Council shall be filled by the mayor and Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council 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 public places in the city the office vacated and the length of the unexpired term.

(2) 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 weeks after the meeting at which such notice of vacancy has been presented. The council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected, and the mayor 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 such meeting to submit the names of qualified registered voters in nomination and the council shall continue to vote upon such nominations at such meeting until the vacancy is filled. The mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members present shall cast a ballot for or against the nominee. Any member of the city council who has been appointed to fill a vacancy on the council shall have the same rights, including voting, as if such person were elected.

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

(D) If vacancies exist in the offices of one-half or more of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (Neb. RS 32-569)

### **§ 30.34 VACANCY DUE TO UNEXCUSED ABSENCES.**

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

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

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

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

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

### ***STANDING COMMITTEES***

#### **§ 30.45 APPOINTMENT.**

At the first regular meeting following the organizational meeting of the City Council, held on the first regular meeting in December of each year in which a municipal election is held, the Mayor shall appoint members of those standing committees as the City Council may by ordinance or resolution create. Committee appointments shall require confirmation by a majority of a quorum of City Council members. Membership of the standing committees shall not be changed without approval of a majority of City Council members in attendance at a regular meeting of the City Council.

#### **§ 30.46 CHAIRPERSONS.**

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

#### **§ 30.47 SPECIAL OR TEMPORARY COMMITTEES.**

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

#### **§ 30.48 MEMBERSHIP LIMITATIONS.**

No more than half of the members of the City Council shall be appointed to any standing or special committee.

**§ 30.49 MEETINGS; PUBLIC.**

Meetings of all standing or special committees shall be conducted in compliance with the Open Meetings Act.

**§ 30.50 LIAISON OFFICES; APPOINTMENT.**

At the organizational meeting of the Governing Body appointments of Council Members shall be made to Liaison Offices. These offices are as follows:

- A. Human Services
- B. Public Health and Safety
- C. Public Works
- D. Fiscal and Economic Development

The Mayor shall nominate one (1) member of the Governing Body to each liaison office. One (1) member of the Governing Body shall not hold more than one (1) liaison office. The Council will vote on ratifications. Should the majority vote be not to ratify, the matter is automatically tabled to the next regular Council meeting. (Amended by Ord.01-02, 4/02/01)

**§ 30.51 LIAISON OFFICES; CATEGORY.**

The name and scope of the liaison offices shall be as follows:

- A. Human Services to include parks, recreation, mental health, health, and cemetery.
- B. Public Safety to include fire, rescue, police and emergency preparedness.
- C. Public Works to include streets, water and sewer.
- D. Fiscal and Economic Development to include financial and management planning and community economic development programming. (Amended by Ord.01-02, 4/02/01)

**§ 30.52 LIAISON OFFICES; GENERAL DUTIES.**

The primary responsibility of each liaison official shall be communication of specific programs, long range planning, budgetary requirements and problems to the Mayor and City Council. When a specific Standing Committee is established, the liaison official will also work to foster communications between the Standing Committee and the Mayor and Council.

During the budget preparation process, the liaison official will work with the Mayor in preparing a proposed budget.



Specific actions requested by the Mayor, Council Members, citizens, administrative staff, committees, or commissions for placement on the agenda shall be communicated to the liaison official responsible for the area in question prior to the development of Council support material.

## ***ORDINANCES, RESOLUTIONS, AND MOTIONS***

### **§ 30.60 GRANT OF POWER.**

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

### **§ 30.61 INTRODUCTION OF ORDINANCES.**

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

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

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

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

### **§ 30.62 PROCEDURE FOR RESOLUTIONS AND MOTIONS.**

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

**§ 30.63 ORDINANCES; STYLE, TITLE.**

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

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

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

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

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

**§ 30.65 PUBLICATION OR POSTING OF ORDINANCES.**

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

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

(B) In book or pamphlet form. (Neb. RS 17-613)

**§ 30.66 CERTIFICATE OF PUBLICATION OR POSTING.**

The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the municipality from the Municipal Clerk showing that the ordinance was passed and approved, and when and in what paper

the ordinance was published, or when and by whom and where the ordinance was posted. (Neb. RS 17-613)

**§ 30.67 EFFECTIVE DATE; EMERGENCY ORDINANCES.**

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

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

**§ 30.68 AMENDMENTS AND REVISIONS OF ORDINANCES.**

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

**CHAPTER 31: APPOINTED CITY OFFICIALS**

Section

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- 31.02 Merger of offices
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- 31.19 Disaster Preparedness Manager

- 31.20 Emergency Services Coordinator
- 31.21 Zoning Administrator
- 31.22 Severe Weather Team Leader
- 31.23 Reserved

**§ 31.01 APPOINTMENT; REMOVAL; QUALIFICATION.**

*(A) Appointment and removal.*

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

(2) The Mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the mayor and council may be removed, demoted, or suspended at any time by the mayor as provided in subdivision (3) of this section. A police officer, including the chief of police, may appeal to the city council such removal, demotion, or suspension with or without pay. After a hearing, the city council may uphold, reverse, or modify the action. (Neb. RS 17-107)

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

pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. This subsection does not apply to a police officer during his or her probationary period. (Neb. RS 17-107).

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

(B) *Qualification for office.*

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

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

**§ 31.02 MERGER OF OFFICES.**

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

**§ 31.03 RESERVED.**

**§ 31.04 MUNICIPAL CLERK.**

(A) The Municipal Clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the City Clerk may transfer such journal of the proceedings of the council or board of trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. (Neb. Rev. Stat. 17-605). He or she shall make, at the end of the fiscal year, a report of the business of the municipality transacted through his or her office for the year. He or she

shall file all official bonds after the same shall have been properly executed and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

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

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

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

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

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

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

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

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

### **§ 31.05 MUNICIPAL TREASURER.**

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

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

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

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

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

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

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

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

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

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



mutual financial institution is also serving as mayor, as a member of the city council, as a member of a board of public works, or as any other officer of the municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. (Neb. Rev. Stat. 17-607)

(G) When the treasurer holds funds of the City in excess of the amount required for maintenance or set aside for betterments and improvements, the mayor and council may, by resolution, direct and authorize the treasurer to invest said surplus funds in the outstanding bonds or registered warrants of the City, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which said bonds or warrants were purchased. (Neb. Rev. Stat. 17-608)

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

#### **§ 31.06 MUNICIPAL FIRE/RESCUE CHIEF.**

The Municipal Fire/Rescue Chief shall be appointed by the Mayor, by and with the consent of the Governing Body, after receipt of a recommendation from the Emergency Services Coordinator. The Fire/Rescue Chief shall be primarily responsible for the administration of the Municipal Fire/Rescue Department, shall work cooperatively with and at the direction of the Municipal Emergency Services Coordinator, and shall take such steps as are reasonable and necessary to ensure the Municipal Fire/Rescue Department is operated in accordance with this Code. The Municipal Fire/Rescue Chief shall serve at the pleasure of the Mayor. (Amended by Ord. No. 96-3, 2/5/96; 03-04, 7/7/03); (Neb. Rev. Stat. 17-147)

#### **§ 31.07 RESERVED.**

#### **§ 31.08 RESERVED.**

#### **§ 31.09 RESERVED.**

#### **§ 31.10 RESERVED.**

#### **§ 31.11 RESERVED.**

#### **§ 31.12 CITY ATTORNEY.**

The Municipal Attorney is the municipality's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the municipality. When requested by the City Council, he or she shall attend meetings of the City Council and

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

**§ 31.13 DEPUTY CITY ATTORNEY.**

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

**§ 31.14 RESERVED.**

**§ 31.15 MUNICIPAL ENGINEER.**

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

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

### **§ 31.16 BUILDING INSPECTOR.**

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

### **§ 31.17 RESERVED.**

### **§ 31.18 MUNICIPAL PLUMBING INSPECTOR.**

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

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

**§ 31.19 DISASTER PREPAREDNESS MANAGER.**

The Mayor, by and with the consent of the Governing Body, shall appoint a Disaster Preparedness Manager. The Disaster Preparedness Manager shall report to the Emergency Services Coordinator and have direct responsibility for the organization, administration, and operation of the local organization for Disaster Preparedness. The Disaster Preparedness Manager shall (1) serve as an ex-officio, unpaid member of the Emergency Management Committee; (2) serve as a liaison between the Municipality's Emergency Management Committees and the Lincoln-Lancaster County Emergency Management; (3) assume all duties and responsibilities of the Disaster Preparedness Manager as set forth in the Municipality Emergency Management Plan, such Plan as proposed by the Emergency Management Committee and adopted by the Governing Body; and (4) have such other duties as the Mayor may direct. (Ord. No. 85-2, 3/18/85) (Amended by Ord. No. 98-17, 11/16/98, 20-02, 03/24/2020; Ord. 20-02)

**§ 31.20 EMERGENCY SERVICES COORDINATOR.**

The Emergency Services Coordinator shall be appointed by the Mayor, by and with the consent of the Governing Body. The Emergency Services Coordinator shall serve as an ex-officio, unpaid member of the Emergency Management Committee and shall be primarily responsible for the overall administration and coordination of the providing of Emergency Services within the Municipality and in accordance with this Code, and shall supervise the Municipal Fire/Rescue Chief, the Disaster Preparedness Manager and the Severe Weather Team Leader. The Emergency Services Coordinator shall perform such duties as may be adopted, from time to time, as policy by the Governing Body and shall report to the Mayor. (Ord. No. 96-3, 2/5/96) (Amended by Ord. 03-04, 7/7/03; 20-02, 3/24/2020; Ord. 20-02)

**§ 31.21 ZONING ADMINISTRATOR.**

The Mayor may appoint a Zoning Administrator. In the absence of a specific appointment by the Mayor, the Building Inspector is hereby designated as Zoning Administrator. (Amended by Ord. 01-02, 4/2/01)

**§ 31.22 SEVERE WEATHER TEAM LEADER.**

The Severe Weather Team Leader shall be appointed by the Mayor, by and with the consent of the Governing Body, after receipt of a recommendation from the Emergency Services Coordinator. The Severe Weather Team Leader shall be primarily responsible for organizing and directing the Severe Weather Team that provides overwatch during severe weather. The Severe Weather Team Leader shall (1) report to the Emergency Services Coordinator; (2) serve as an ex-officio, unpaid member of the Emergency Management Committee; (3) serve as a liaison between the Municipality's Emergency Management Committees and the Lincoln-Lancaster County Emergency Management; (4) assume all duties and responsibilities of the Severe Weather Team Leader as set forth in the Municipality Emergency Management Plan, such Plan as proposed by the Emergency Management Committee and adopted by the Governing Body; and (5) have such other duties as the Mayor may direct. (Ord. No. 20-02, 3/24/2020; Ord. 20-02)

**§ 31.23 RESERVED.**

**CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS**

Section

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- 32.083 Reserved

## *BOARDS AND COMMISSIONS*

### **§ 32.001 PLANNING COMMISSION.**

The Governing Body shall appoint the Planning Commission which shall consist of seven (7) members who shall represent, insofar as is possible, the different professions or occupations in the Municipality and who shall be residents of the Municipality. However, one (1) of such members may be a resident of the area over which the Municipality is authorized to exercise extraterritorial zoning and subdivision regulations. The members of the Commission shall serve a three (3) year term of office unless reappointed. But if a Municipal Planning Commission has either five (5) or seven (7) members, approximately one-third (1/3) of the members of the first Commission shall serve for a term of one (1) year, one-third (1/3) for a term of two (2) years, and one-third (1/3) for a term of three (3) years. The Commission shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body and conditioned upon the faithful performance of their duties.

At the time of the Commission's first (1st) meeting in January of each year, the Commission shall organize by selecting from its membership a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk, where they shall be available for public inspection at any reasonable time. The Planning Commission shall be funded by the Governing Body from time to time out of the General Fund. A majority of the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the chairman, or any three (3) members of the Commission. The Planning Commission shall hold at least one (1) regular meeting in each calendar quarter, except the municipal Governing Body may require the Commission to meet more frequently and the Chairperson of the Commission may call for a meeting when necessary to deal with business pending before the Commission. It shall be the duty of the Commission to make and adopt plans for the physical development of the Municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of such Municipality, and including a Comprehensive Development Plan as defined in Neb. Rev. Stat. §19-903 (Reissue 1977); to prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and zoning ordinance in cooperation with other interested municipal departments; consult and advise with public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs; have the power to delegate authority to any such group; to conduct studies and make surveys for the Commission; make the preliminary reports on its findings; and hold public hearings before submitting its final reports. The Municipal Governing Body shall not hold its public meetings or take action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, or zoning until it has received the recommendation of the Planning Commission, if such Commission in fact has been created and its existent; Provided, that the Governing Body may set a reasonable time within which the recommendation is to be received.

The Governing Body authorizes the Planning Commission to grant conditional uses or special exceptions to property owners for the use of their property, and approves the standards and procedures adopted by the Commission for equitably and judiciously granting such conditional uses or special exceptions. The Commission may, with the consent of the Governing Body, in its own name, make and enter into contracts with public or private bodies; receive contributions, bequests, gifts, or grant funds from public or private sources; expend the funds appropriated to it by the Municipality; employ agents and employees; and acquire, hold, and dispose of property. The Commission may on its own authority make arrangements consistent with its program; conduct or sponsor special studies or planning work for any public body or appropriate agency; receive grants, remuneration, or reimbursements for such studies or work; and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

The Commission shall cooperate with County, Municipal, or Regional Planning Commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.

The City Council may provide the funds, equipment, and accommodations necessary for the work of the Commission, but the expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

The Commission shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Governing Body, or other Municipal official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. No member of the Planning Commission shall serve in the capacity of both the chairman and secretary of the Commission. *(Amended by Ord. No. 12-07, 4/3/12)*

## **§ 32.002 BOARD OF ADJUSTMENT.**

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of 5 regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of 3 years and shall be removable for cause by the Mayor and City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by that member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the City, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within that area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the City but within its extraterritorial zoning

jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. (Neb. RS 19-908)

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

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

(D) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. This appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Neb. RS 19-909)

(E) The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council, have only the following powers: (1) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or



soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under subsection (3) of section Neb. Rev. Stat. 19-929; (2) to hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (3) when by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under Neb. Rev. Stat. 19-910 and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

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

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

Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912. (Neb. RS 19-910)

### **§ 32.003 BOARD OF HEALTH.**

(1) The Governing Body shall contract with Lincoln/Lancaster County for the services of the Lincoln/Lancaster County Board of Health, for the purposes of enforcement of any ordinance which the City would require the involvement of the Board of Health. The Lincoln/Lancaster County Board of Health shall be deemed to be the Board of Health of the City of Waverly and shall have full power to act as such with respect to enforcement of any ordinance. It shall be the duty of the Board to advise the City and investigate the occurrence of nuisances within the

Municipality relating to matters which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. The Board shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. *(Ref. 17-121 RS Neb.) (Amended by Ord. No. 84-2, 4/23/84)*

(2) Except as provided by specific amendment, the standards and regulations set forth in Lancaster County Onsite Wastewater Treatment System Resolution R-15-0004, as amended by R-22-0014, as amended by R-22-0086 ; Lancaster County Solid Waste Resolution R-87-4308 ; Lancaster County Property Transfer Resolution R-13-0064, as amended by R-22-0013, as amended by R-22-0084 ; and Lancaster County Air Pollution Control Resolution R-13-0073, as amended by R-22-0085 ; copies of which are attached hereto and incorporated herein by this reference, and as amended from time to time, are hereby adopted by reference and incorporated into the City of Waverly ordinances and municipal code.

(3) The Interlocal Agreement (Resolution No. 23-23) between the City of Lincoln, Nebraska, on behalf of the Lincoln-Lancaster County Health Department, and the City, for the purpose of providing health regulation inspection and enforcement within the corporate limits and extra-territorial jurisdiction of the City, dated October 24, 2023, as amended, is hereby approved and adopted by the City, a copy which is attached hereto and incorporated herein by this reference. *(Amended by Ord. No. 23-16, 10/24/2023)*

#### **§ 32.004 PARK COMMITTEE, AND RECREATION SUBCOMMITTEE.**

The Mayor shall appoint the Park Committee, subject to ratification by the Governing Body. The Committee shall consist of six (6) members, including the Waverly City Council Member appointed by the Mayor. Such Council Member shall serve as a non-voting official member of the Committee and shall not propose Committee action by motion. Residency within the zoning jurisdiction of the City of Waverly shall be a prerequisite for Committee and/or sub-committee membership. In the event that any Committee or sub-committee member shall cease to maintain a residence within such zoning jurisdiction, his or her seat on the Committee and/or sub-committee shall be deemed to have been vacated. The Waverly City Council member serving on the Committee shall serve a one (1) year term of office, unless reappointed. The members of the Committee and sub-committee shall serve a three (3) year term of office, unless reappointed, and shall serve without compensation; Provided, however, that this Section shall not affect the term of office of any sitting Park Committee member at the time of its adoption. At the time of the Committee's and sub-committee's first (1st) meeting in January of each year, such Committee and sub-committee shall each organize by selecting from their number a chairperson, vice-chairperson, and secretary. It shall be the duty of each such secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk, where they shall be available for public inspection at any reasonable time. A majority of the voting members of the Committee shall constitute a quorum for the transaction of Committee business. The Committee shall meet at such times as their own internal rules shall provide. The Committee shall propose to the Governing Body appropriate rules and regulations for the management, use, and operation of all parks and recreational facilities belonging to the Municipality, governing

the use of such facilities other than in connection with organized recreation programs. The Committee shall, in addition, propose to the Governing Body, appropriate plans governing the development and maintenance of all parks and other physical facilities belonging to the Municipality. All actions of the Committee and its Recreation sub-committee shall be subject to the review and control of the Governing Body. The Committee shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. (*Ref. 17-952 RS Neb.*) (*Amended by Ord. No. 2-204, 12/7/81; 06-26, 12/18/06*)

### **§ 32.005 WAVERLY EMERGENCY MANAGEMENT COMMITTEE.**

The Mayor shall appoint the Waverly Emergency Management Committee subject to ratification by the Governing Body. The Committee shall consist of at least six (6) members, and shall include one sitting City Council Member, the Waverly Emergency Services Coordinator, Disaster Preparedness Manager, Severe Weather Team Leader, Executive Member of the Rural Fire Board and the Waverly Fire Chief. The Council Member appointed to such Committee shall serve as a non-voting ex officio member of the Committee and shall not propose Committee action by motion. The members of the Committee shall serve without compensation. The Committee shall meet at such times as their own internal rules shall provide. Full and correct minutes and records of all meetings shall be kept and provided to the Municipal Clerk for filing, where they shall be available for public inspection at any reasonable time. A majority of the voting Committee members shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the Committee shall function in accordance with its own procedural rules. The Waverly Emergency Services Coordinator shall serve as the chairperson of the Committee. The chairperson shall have direct responsibility for the organization, administration, and operation of the Committee, subject to the direction and control of the Mayor. The Committee shall propose to the Governing Body appropriate rules and regulations for emergency management for the Municipality in coordination with the Waverly Emergency Management Plan of the Lincoln-Lancaster County Emergency Management. All actions of the Committee shall be subject to the review and control of the Governing Body. The Committee shall be responsible for providing such reports and performing such other duties as the Governing Body may, from time to time and at any time, designate. (Ord. No. 2-200.206, 11/16/81) (Amended by Ord. Nos. 83-5, 4/18/83; 84-1, 2/20/84; 90-4, 3/5/90; 98-8, 4/6/98, 20-02, 3/24/2020; and 23-01, 2/28/2023)

### **§ 32.006 COMMUNITY REDEVELOPMENT AUTHORITY.**

(1) Creation. There is hereby created the Community Redevelopment Authority of the City of Waverly, Nebraska.

(2) Membership. The Mayor shall appoint, with the approval of the City Council, five (5) members who shall constitute the membership of the Authority. The Mayor shall designate the term of office for each member as provided for in Neb. Rev. Stat. Section 18-2102.01. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. Members of the community redevelopment authority so appointed shall hold office until their successors have been appointed and qualified. All members of the community redevelopment authority shall serve without compensation but shall be

entitled to be reimbursed for all necessary expenses incurred. A total of four (4) members of the Authority shall constitute a quorum for the transaction of business. The Authority shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be made available for public inspection during regular business hours.

(3) Officers. The Authority shall organize by electing one of its members chairperson and another as vice-chairperson.

(4) Employees. The Authority may secure the services of a director, community redevelopment administrator, or coordinator, and other officers and employees as may be desired through contract with the Department of Economic Development upon terms which are mutually agreeable.

(5) Funds. All income, revenue, profits and other funds received by the Authority shall be deposited with the City Treasurer as the ex officio Treasurer of such Authority without commingling such money with any other money under his or her control and disbursed by check or draft only upon warrants, orders, or requisitions by the Chairperson of the Authority or other person authorized by the Authority which shall state distinctly the purpose for which the same are drawn; and a permanent record shall be kept by the Authority of any such activity. (*Ord. 18-07, 06/12/2018; Ord. No. 23-13, 08/22/2023*)

## ***UTILITY DEPARTMENTS***

### **§ 32.045 WATER DEPARTMENT; OPERATION AND FUNDING.**

The Municipality owns and operates the Municipal Water Department. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may, each year, levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer.

The City Administrator shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, which regulations shall be submitted to the Governing Body and ratified by resolution. Such regulations shall not become effective until ratified by published resolution of the Governing Body. The Governing Body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (*Amended by Ord. No. 01-04, 5/7/01*) (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

### **§ 32.046 SEWER DEPARTMENT; OPERATION AND FUNDING.**

The Municipality owns and operates the Municipal Sewer System. The Governing

Body, for the purpose of defraying the cost of the operation, maintenance, and replacement (OM&R) of the Municipal Wastewater System may establish a user charge system based on estimated use and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance, and replacement (OM&R) costs among users and user classes;

2. Generate adequate revenues to pay the costs of operation and maintenance, repair, and wastewater treatment facility bond retirement;

3. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly. The revenue from the said user charge system use shall be known as the Wastewater System Maintenance Fund, which fund shall be maintained and accounted for by the Municipal Treasurer in accordance with the Waverly Municipal Code. The Wastewater Operator shall have direct management and control of the Sewer Department and shall faithfully carry out the duties of his or her office. He or she shall function within the policy guidelines established by the Governing Body for the operation and maintenance of the Municipal Wastewater System and shall operate the Sewer Department under the direct control of the City Administrator. He or she shall have the authority to promulgate rules and regulations for the sanitary and efficient management of the Department subject to the supervision, review and approval of the Governing Body. (Ref. 17-574, 17-925.01 RS Neb.) (*Amended by Ord. No. 87-9, 7/20/87,01-08,7/2/01*)

### ***EMERGENCY SERVICES***

#### **§ 32.060 EMERGENCY SERVICES.**

The Municipality operates and administers the Waverly Fire and Rescue Department to provide fire protection and emergency rescue services within the City's corporate limits. (Amended by Ord. 03-05, 7/7/03)

#### **§ 32.061 ALTERNATIVE MEANS TO PROVIDE SERVICES.**

In lieu of having its own Fire Department as provided in this Article, the Municipality may provide fire protection services via contract with another agency authorized to provide fire protection services as provided by Neb. Rev. Stat. 13-801 through 13-807 (Reissue 1991). (Ord. No. 96-10, 10/7/96)

#### **§ 32.062 ALTERNATIVE MEANS TO PROVIDE SERVICES.**

In lieu of having its own Rescue Squad as provided in this Article, the Municipality may provide emergency rescue services via contract with another agency authorized to provide emergency rescue services as provided by Neb. Rev. Stat. 13-303 (Reissue 1991). (Ord. No. 96-11, 10/7/96)

#### **§ 32.063 OPERATION AND FUNDING.**

The Municipality operates the Waverly Fire and Rescue Department through the Emergency Services Coordinator, the Municipal Fire/Rescue Chief, volunteer firefighters and emergency rescue squad members. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Waverly Fire and Rescue Department may each year levy a tax not exceeding the maximum limits prescribed by State Law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The Municipality may enter into an agreement with the appropriate rural fire district for mutual aid, sharing of costs and authorizing the Waverly Fire and Rescue Department to provide protection and services for all the residents therein. (Amended by Ord. 03-05, 7/7/03)

#### **§ 32.064 FIRE/RESCUE CHIEF.**

The Municipal Fire and Rescue Chief shall manage the Waverly Fire and Rescue Department and it shall be his/her duty to command all firefighting/rescue activities; interview and recommend appointment of firefighters/rescue personnel; maintain departmental discipline and order; enforce rules and regulations; recommend disciplinary actions; regularly inspect readiness of personnel and equipment; participate in the formulation of departmental policies and procedures, including policies and procedures for the recruitment and retention of firefighters/rescue personnel; participate in the preparation and administration of the fire department budget; and prepare and submit necessary statistical and operation reports as are requested by the Mayor, the Governing Body, and the Emergency Services Coordinator. (Amended by Ord. 03-05, 7/7/03)

#### **§ 32.065 FIREFIGHTERS/RESCUE PERSONNEL.**

The Mayor, based upon recommendations of the Emergency Services Coordinator and the Fire/Rescue Chief, shall appoint, subject to the review and approval of the Governing Body, no more than seventy-five (75) persons as firefighters/rescue personnel to the Waverly Fire and Rescue Department. A City Council Member shall serve as a nonvoting ex officio member of the Department and shall not propose department action by motion. The members of the Department shall serve without compensation. A current list of firefighters approved by resolution by the Governing Body will be filed and maintained at the office of the City Clerk and with the Fire/Rescue Chief. All prospective firefighter/rescue members shall complete a Membership Application form approved by the City. The duly appointed firefighter/rescue members shall be considered to be employees of the Municipality for the purpose of providing them with worker's compensation and life insurance. Each firefighter/rescue member shall be entitled to a term life insurance policy for death from any cause. The policy, at the option of the individual, may be converted to a permanent form of life insurance at age seventy (70); Provided, that the firefighters/rescue members covered are actively and faithfully performing the duties of their position, including, but not limited to, traveling from any place from which they have been called to active duty, to a fire station or other place where firefighting/rescue equipment that their company or unit is to use is located, or to any emergency that the firefighters/rescue members may be officially called to participate in, attending drills, meetings, seminars, or

training related to the duties as firefighters/rescue members as may be decided by the Governing Body subject to the limitations above. Except as otherwise provided herein, the Department shall function in accordance with its own procedural rules. The Waverly Fire and Rescue Chief shall have direct responsibility for the organization, administration, and operation of the Department, subject to the direction and control of the Emergency Services Coordinator and the Mayor. The Department shall propose to the Governing Body appropriate rules and regulations for Fire and Rescue Safety for the Municipality. All actions of the Department shall be subject to review and control of the Governing Body. The Department shall be responsible for making such reports and performing such other duties as the Governing Body may from time to time designate. (Amended by Ord. No. 99-18, 6/21/99; 03-05, 7/7/03; 23-02, 3/14/23)

### **§ 32.066 FIRES.**

It shall be the duty of the Waverly Fire and Rescue Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention. (Amended by Ord. 03-05, 7/7/03)

### **§ 32.067 IMPERSONATING FIREFIGHTER/RESCUE PERSONNEL.**

It shall be unlawful for any person to falsely impersonate a firefighter/rescue member by wearing a badge or other apparel usually worn by a firefighter/rescue member for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of firefighter/rescue personnel for bona fide entertainment purposes when there is no intent to defraud. (Ref. 28-609 RS Neb.) (Amended by Ord. 03-05, 7/7/03)

### **§ 32.068 MANDATORY ASSISTANCE.**

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

### **§ 32.069 FIRE INVESTIGATION.**

It shall be the duty of the Waverly Fire and Rescue Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of fifty dollars (\$50.00). All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshall shall have the right to supervise and direct the investigation whenever he/she deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshall and shall, within one (1) week of the occurrence of the fire, furnish him/her

with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for. (Ref. 81-506 RS Neb.)

**§ 32.070 RESERVED.**

**§ 32.071 OPERATION AND FUNDING.**

The City of Waverly shall oversee the Waverly Fire and Rescue for ambulance and rescue services through the Emergency Services Coordinator. The Governing Body, for the purpose of defraying the cost of the maintenance, management, and improvements relating to the Waverly Fire and Rescue Department and equipment attendant thereto, may each year levy tax not exceeding the maximum limits prescribed by State Law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The Municipality may enter into an agreement with the appropriate rural fire district for mutual aid, sharing of costs, and authorizing the Waverly Fire and Rescue to provide protection and services for all the residents therein. (Amended by Ord. No. 99-19, 7/6/99)

**§ 32.072 RESERVED.**

**§ 32.073 REMOVAL OF VOLUNTEER MEMBERS.**

The Mayor shall, after consulting with the Emergency Services Coordinator and Fire/Rescue Chief, have the duty to remove or suspend any fire/rescue personnel who (1) act with gross or willful negligence in the performance of their duties; (2) display grossly immoral or dishonorable conduct evidencing unfitness for service as a volunteer fire/rescue member; (3) have been convicted of a Class I or II misdemeanor or a felony under state law; or (4) otherwise fail to perform duties in accordance with this Code. Gross or willful negligence includes, but is not necessarily limited to (a) a deliberate act; (b) such conduct as evidences reckless indifference to safety; or (c) intoxication or being under the influence of any drug which would impair physical or mental faculties while performing active duty. (Amended by Ord. No. 99-19, 7/6/99; 03-05, 7/7/03)

***POLICE DEPARTMENT***

**§ 32.080 CONTRACT WITH COUNTY SHERIFF'S OFFICE.**

The City of Waverly may enter into a contract with the County Board of Lancaster County for police services to be provided by the County Sheriff's office. Whenever any such contract has been entered into, the Sheriff shall, in addition to his other powers and duties, have all the powers and duties of peace officers within and for the City of Waverly. (Ref. 19-3801 RS Neb.)

**§ 32.081 RESERVED.**

**§ 32.082 RESERVED.**

**§ 32.083 RESERVED.**



## CHAPTER 33: GENERAL PROVISIONS

### Section

#### *Meetings*

- 33.01 Reserved
- 33.02 Reserved
- 33.03 Reserved
- 33.04 Reserved
- 33.05 Reserved
- 33.06 Reserved
- 33.07 Reserved
- 33.08 Reserved
- 33.09 Reserved
- 33.10 Reserved
- 33.11 Reserved
- 33.12 Reserved
- 33.13 Order of business
- 33.14 Parliamentary procedure
- 33.15 Change in office
- 33.16 Organizational meetings
- 33.17 Meetings; ordinances
- 33.18 Meetings; agendas

***Bonds and Oaths***

- 33.30 Bonds; form
- 33.31 Oath of office; municipal officials

***Compensation***

- 33.45 Compensation; municipal officers
- 33.46 Conflicts of interest
- 33.47 Reserved
- 33.48 Employee Handbook

***MEETINGS***

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

**§ 33.01 RESERVED.**

**§ 33.02 RESERVED.**

**§ 33.03 RESERVED.**

**§ 33.04 RESERVED.**

**§ 33.05 RESERVED.**

**§ 33.06 RESERVED.**

**§ 33.07 RESERVED.**

**§ 33.08 RESERVED.**

**§ 33.09 RESERVED.**

**§ 33.10 RESERVED.**

**§ 33.11 RESERVED.**

**§ 33.12 RESERVED.**

**§ 33.13 ORDER OF BUSINESS.**

Regular meetings of the City Council shall be held on the second (2nd) and fourth (4th) Tuesdays of each month at the hour of six (6:00) o'clock p.m., unless the time or date of any regular meeting is changed by the Mayor and such change of schedule is communicated to the public by publication, or if publication is for any reason defective or deficient, then by posting. Promptly at the hour set by law on the day of each regular

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

### **§ 33.14 PARLIAMENTARY PROCEDURE.**

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

### **§ 33.15 CHANGE IN OFFICE.**

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

### **§ 33.16 ORGANIZATIONAL MEETINGS.**

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

(B) It is hereby made the duty of each and every member of the Council or his or her successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in subscribing and taking an oath to support the federal Constitution, the state Constitution, and the laws of the municipality and to perform

faithfully and impartially the duties of office, this oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

### **§ 33.17 MEETINGS; ORDINANCES.**

A. Introduced by Council Member proposing ordinance. If an area of another Council Member's liaison office, introducer shall communicate nature of ordinance to the liaison official prior to introduction to the Governing Body.

B. The introducer shall place each ordinance on the agenda of a regular meeting of the Governing Body, at his/her pleasure, for subsequent readings. Any person may comment on the ordinance at any public hearing held after the introduction of the ordinance, provided that no one ordinance shall be the subject of more than fifteen (15) minutes discussion during any single public hearing, divided as follows: Introducer, five (5) minutes for opening remarks; Proponents, five (5) minutes; Opponents, five (5) minutes.

C. Following successful vote on an ordinance on first (1st) reading the City Attorney will be authorized to work with the Council Member introducing the ordinance to add legal form to the ordinance.

D. The Clerk will read the ordinance by title following all inside motions to amend, and immediately following the summation of the main motion.

E. Any Council Member may amend current reading. Substantive changes may, by motion, cause the ordinance to revert to a lower reading.

F. Three-fourths ( $\frac{3}{4}$ ) of those elected to the office are required for passage. The Mayor may break a tie.

G. Failure of a motion to adopt results in total failure of ordinance and cannot be reintroduced for six (6) months. (Amended by Ord. No. 90-3, 4/2/90)

### **§ 33.18 MEETINGS; AGENDAS.**

Agenda items for regular meetings of the Governing Body shall be submitted to the Clerk on the Wednesday preceding the meeting date. The Governing Body shall have the right to modify agenda items or expand the agenda to include items of an emergency nature, at public meetings, and, to include items placed on the agenda after the due date provided above, but prior to the meeting date. Only by Council Members, the Mayor and the Clerk may place items on the agenda. The Clerk may place routine items on the agenda without endorsement and shall place on the agenda matters requiring action by State law and items requested by the City's Fiscal Agent or the City Attorney. (Ref. Ord. No. 78-4) (Amended by Ord. No.01-02, 4/2/01)

Should the President of the Council determine that more items have been submitted on the agenda than can be fairly disposed of under the rules, the President may request of the sponsor a postponement. The President may arrange items within the general context

of the agenda for efficient disposition of business at his/her discretion. Also, the Mayor shall dispose of all items pertaining to consultants in attendance upon their arrival at the meeting. Individual citizens wishing a specific item to be placed on the agenda shall be directed to the liaison official that is determined to be responsible for the item to be considered and/or the Mayor. Regular rules as outlined above shall then apply. The Mayor and the President of the Council shall make the final determination as to the makeup of the agenda. (Amended by Ord. No. 15-06, 8/4/15)

To conform to rules of the Governing Body, the following form shall be used for the agenda.

- I. Call to Order
- II. Public Hearings
- III. Public Comment
- IV. Approval of Minutes
- V. Approval of Financial Reports & Consideration of Claims for Payment
- VI. Introduction of Resolutions
- VII. Introduction of Ordinances
- VIII. Introduction of Business Communications

An agenda, kept continuously current, is available for public inspection at the office of the City Clerk. The Mayor shall arrange such agenda items at the meeting to economically use the time of retained consultants. The agenda information notice shall contain an estimated running time as set forth in the rules of Council meetings. (Amended by Ord. No. 90-3, 4/2/90)

Mayor and each Council Member receive via messenger on Friday afternoon, or before, preceding the Council meeting, a packet containing the following material:

- A. An agenda listing published agenda items
- B. Explanation of each agenda item indicating which Council Member has placed the item, as well as any guests or speakers and estimated time limits
- C. All support material relative to the agenda items
- D. Any communications to individual Council Members.

It shall be the duty of the introducer to see that adequate written explanation is given of each published agenda item to fully inform the Council and Mayor.

Although it is necessary that each Council Member and Mayor receive agenda support material with the agenda packet as outlined in herein, sometimes circumstances require handouts to be presented at the Council meeting. In this case, all handouts in the custody of the Clerk shall be presented prior to call to order. This Section does not pertain to support material brought to the meeting by Public or representatives although the Council encourages support material to be contained with the agenda packet.

## ***BONDS AND OATHS***

### **§ 33.30 BONDS; FORM.**

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

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

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

**§ 33.31 OATH OF OFFICE; MUNICIPAL OFFICIALS.**

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

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

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

***COMPENSATION***

**§ 33.45 COMPENSATION; MUNICIPAL OFFICERS.**

The compensation of any elective municipal officer shall not be increased or diminished during the term for which he shall have been elected, except: (a) when there has been a combination and merger of offices as provided by Sections 17-108.02 and 17-209.02 of the Nebraska Revised Statutes; or (b) the compensation of the Mayor and all members of the Governing Body, may be increased or diminished at the beginning of the full term of the Mayor or any member of the Governing Body.

No person who shall have resigned or vacated any elective office shall be eligible to the same during the time for which he was elected if during the same time the compensation thereof were increased. The annual salary of the Mayor shall be \$2,000 per one thousand (1,000) City residents or fraction thereof, and the annual salary for each of the Council Members shall be \$1,000 per one thousand (1,000) City residents or fraction thereof. The City's resident population for purposes of this ordinance shall be determined by a federal, state or local census accepted by the City by resolution and any salary change shall become effective on the beginning of the next full term of the Mayor or any member of the Governing Body after the census has been completed. The salaries shall be paid in two semiannual payments during the first council meetings in June and December. (Ref. 17-108.02, 17-612 RS Neb.)(Amended by Ord. 02-13, 4/1/02; 04-06, 7/5/04)

**§ 33.46 CONFLICTS OF INTEREST.**

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

**§ 33.47 RESERVED.**

**§ 33.48 EMPLOYEE HANDBOOK.**

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

**CHAPTER 34: ELECTIONS**

Section

***General Election Provisions***

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

***GENERAL ELECTION PROVISIONS***

**§ 34.01 GENERALLY.**

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



## **§ 34.02 NOTICE.**

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

## **§ 34.03 REGISTERED VOTERS; QUALIFICATIONS.**

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

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

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

## **§ 34.04 SPECIAL ELECTIONS.**

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

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

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

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even numbered year unless it is held in conjunction with the statewide primary or general election. (Neb. RS 32-405) (Ord. 2305, 8-21-84) (Am. Ords. 2700, 7-1-97; 2892, 9-7-04)

#### **§ 34.05 ELECTION OF OFFICERS; CERTIFICATION.**

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

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

#### **§ 34.06 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.**

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

#### **§ 34.07 FILING FEE.**

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

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

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

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

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

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

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

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

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

(A)(1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in Neb. Rev. Stat. 32-617 and Neb. RS 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. 32-627 or 32-710.

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

(B) Petitions for nomination for partisan and nonpartisan offices shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing

in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

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

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

#### **§ 34.09 EXIT POLLS.**

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

#### **§ 34.10 CERTIFICATE OF NOMINATION OR ELECTION.**

(A) The Election Commissioner or County Clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each municipal office. No person shall be issued a certificate of nomination as a candidate of a political party unless that person has received a number of votes at least equal to 5 % of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves. (Neb. Rev. Stat. 32-1033) (Ord. 2813, 1-16-01)

### **CHAPTER 35: FINANCE AND REVENUE**

#### Section

##### ***General Provisions***

- 35.01 General fund
- 35.02 Budget statement, hearing, filing, and procedure
- 35.03 Reserved
- 35.04 Reserved
- 35.05 Reserved

- 35.06 Appropriations
- 35.07 All purpose levy
- 35.08 Extraordinary levy
- 35.09 Inadequate valuation
- 35.10 All purpose levy, allocation
- 35.11 All purpose levy, abandonment
- 35.12 General property tax
- 35.13 Expenditures
- 35.14 Contract
- 35.15 Annual audit
- 35.16 Claims
- 35.17 Warrants
- 35.18 Special assessment fund
- 35.19 Sinking funds
- 35.20 Deposit of funds
- 35.21 Investment of funds
- 35.22 Bond issues

**§ 35.01 GENERAL FUND.**

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

**§ 35.02 BUDGET STATEMENT, HEARING, AND FILING.**

The City shall adhere to the requirements of the Nebraska Budget Act, Neb. Rev. Stat. §§ 13-501 to 513, for all purposes related to the City's budget.

**§ 35.03 RESERVED.**

**§ 35.04 RESERVED.**

**§ 35.05 RESERVED.**

**§ 35.06 APPROPRIATIONS.**

The Governing Body shall, on or before September 20<sup>th</sup>, pass an ordinance 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, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance shall specify the objects and purposes for which such appropriations are to be made, and the amount appropriated for each purpose. Any balance unexpended and unobligated at the end of the fiscal year shall, unless reappropriated, lapse into the General Fund. *(Ref. 17-706 RS Neb.) (Amended by Ord.02-11, 3/18/02)*

**§ 35.07 ALL PURPOSE LEVY.**

The Governing Body has determined that the amount of money to be raised by taxation shall be certified to the County Clerk in the form of one all purpose levy instead of

certifying a schedule of levies for specific purposes added together. Said all purpose levy shall not exceed the maximum levy permitted by State law. (*Ref. 19-1309 RS Neb.*) (*Amended by Ord.02-11, 3/18/02*)

#### **§ 35.08 EXTRAORDINARY LEVY.**

Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the Municipality and to pay judgments obtained against the Municipality may be made in addition to the all purpose levy. (*Ref. 19-1309 RS Neb.*)

#### **§ 35.09 INADEQUATE VALUATION.**

If the valuation of the Municipality has been reduced so that the maximum levy permitted by Section 35.07 is inadequate to produce the necessary revenue, said maximum levy may be exceeded upon presentation to the Governing Body of petitions signed by a majority of the registered voters of the Municipality requesting such action and specifying the extent to, and the period of time, not to exceed five (5) years, in which such maximum may be exceeded. No signature may be withdrawn after the petitions have been filed with the Governing Body. The Governing Body shall cause such petitions, accompanied by the certificate of the County Clerk that he has examined the petitions and that they have been signed by a majority of the registered voters of the Municipality, to be filed with the County Board in which the Municipality is located. After such filing, the Governing Body may exceed the maximum mill levy to the extent and for the period of time specified in the petitions. (*Ref. 19-1309 RS Neb.*)

#### **§ 35.10 ALL PURPOSE LEVY, ALLOCATION.**

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 shall deem best. (*Ref. 19-1310 RS Neb.*)

#### **§ 35.11 ALL PURPOSE LEVY, ABANDONMENT.**

The Municipality shall be bound by its election of the all purpose levy during the ensuing fiscal year, but may abandon such method in succeeding fiscal years. (*Ref. 19-1311 RS Neb.*)

#### **§ 35.12 GENERAL PROPERTY TAX.**

The Governing Body shall cause to be certified to the County Clerk the amount of tax to be levied upon the assessed value of all the taxable property of the Municipality for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by State law. (*Ref. 12-702 RS Neb.*)

### **§ 35.13 EXPENDITURES.**

No Municipal official shall have the power to appropriate, issue, or draw any order or warrant on the Municipal Treasury for money, unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the Municipality shall exceed in any one (1) year the amount provided for that improvement in the adopted budget statement. (*Ref. 17-708 RS Neb.*)

### **§ 35.14 CONTRACT.**

The Governing Body shall, before making any contract in excess of twenty (\$20,000.00) as estimated by the Municipal Engineer, for general improvements such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, advertise for bids, unless such contract shall be entered into for the benefit of the Municipal Electric Utility. A Municipal Electric Utility may enter into a contract for any such work or improvement or for the purpose of such equipment without advertising for bids if the: (a) Price is twenty thousand dollars (\$20,000) or less; (b) price is forty thousand dollars (\$40,000) or less and the Municipal Electric Utility has a gross annual revenues from retail sales in excess of one million dollars (\$1,000,000.00); (c) price is sixty thousand dollars (\$60,000.00) or less and the Municipal Electric Utility has gross annual revenues from retail sales in excess of five million dollars (\$5,000,000.00); or (d) price is eighty thousand dollars (\$80,000.00) or less and the Municipal Electric Utility has gross annual revenues from retail sales in excess of ten million dollars (\$10,000,000.00). In advertising for bids for any such work, or for the purchase of such equipment, the Governing Body may cause the amount of such estimate to be published therewith. Such advertisement shall be published once each week for three (3) consecutive weeks in a legal newspaper published in or of general circulation in the Municipality, or by posting a written or printed copy thereof in each of three (3) public places in the Municipality; provided, that in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to life, health, or property, or war, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths (3/4) vote of the Governing Body. If, after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract for services, material, or labor, or if the bids received by the Governing Body contain a price which exceeds the estimated cost of the project, the Governing Body shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

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 purchasing Municipality, the Governing Body or Board of Public Works, may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

The Municipal bidding procedure shall be waived when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the State bidding procedure. *(Ref. 17-568.01)*  
*(Amended by Ord. No. 83-19, 10/17/83, 02-11, 3/18/02)*

### **§ 35.15 ANNUAL AUDIT.**

The Governing Body shall cause an audit of the Municipal accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Governing Body. The said audit shall be completed, and the annual audit report made not later than six (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 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.

### **§ 35.16 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 percent (85%) of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the Municipal Treasury for the appropriate fund against which it is to be drawn; Provided, that in the event there exists obligated funds from the Federal and/or State government for the general purpose of such warrant, then such warrant may be drawn in excess of eighty-five percent (85%), but not more than one hundred percent (100%) of the current levy for the purpose for which said warrant is drawn. *(Ref. 17-714, 17-715 RS Neb.)*

### **§ 35.17 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.)*



### **§ 35.18 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.*)

### **§ 35.19 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 percent (60%) 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.*)

### **§ 35.20 DEPOSIT OF FUNDS.**

The Governing Body, at its first (1<sup>st</sup>) meeting in each fiscal year, shall designate one (1) or more banks of approved and responsible standing in which the Municipal Treasurer shall keep at all times all money held by him; Provided, if more than one (1) bank in the Municipality meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them, and the Municipal Treasurer shall not give a preference to any one (1) or more of them in the money he shall deposit. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (*Ref. 17-607, 77-2362 through 77-2364 RS Neb.*)

### **§ 35.21 INVESTMENT OF FUNDS.**

The Governing Body may, by resolution, direct and authorize the Municipal Treasurer to invest surplus funds in the outstanding bonds or registered warrants of the Municipality, and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (*Ref. 17-608, 17-609, 77-2341 RS Neb.*)

### **§ 35.22 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.