

## **CHAPTER 1 – CIVIL ADMINISTRATION**

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## **CHAPTER 1 – CIVIL ADMINISTRATION**

### **Article 1 – City Administration**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The City of Ainsworth, Nebraska, having a population of more than 800 inhabitants but fewer than 5,000, is hereby declared to be a city of the second class and shall be governed in all respects by the laws regulating cities of the second class. (Neb. Rev. Stat. §17-101)

#### **SECTION 1-102: OFFICIAL CORPORATE SEAL**

The official corporate seal of the City shall be kept in the office of the city clerk and may bear the following inscription: "Seal, City of Ainsworth, Nebraska." The clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the City Council and countersigned by the clerk. (Neb. Rev. Stat. §17-502)

#### **SECTION 1-103: OATH OF OFFICE; CITY OFFICIALS**

A. All elected or appointed officials of the City shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds, except when a different oath is specifically provided herein. If any such officer is not required to give bond, the oath shall be filed in the office of the secretary of state or with the city clerk.

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

(Neb. Rev. Stat. §11-101)

#### **SECTION 1-104: BONDS; BLANKET BOND**

A. The City may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance

for the faithful performance of their duties. All official bonds of city officers must be in form, joint and several, and made payable to the City in such penalty as the City Council may fix. All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. The approval of each official bond shall be endorsed upon such bond by the officer approving the same and no bond shall be filed and recorded until so approved. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the instrument by the mayor and city clerk pursuant to the approval of the council. In place of the individual bonds required to be furnished by municipal officers, a blanket bond or undertaking or evidence of equivalent insurance may be given by the officers. The City may pay the premium for the bond or insurance coverage, which shall be, at a minimum, an aggregate of the amounts fixed by law or by the City Council and with such terms and conditions as may be required.

B. All official bonds of local officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given; or any official bond of a local officer may be executed by the officer as principal and by a guaranty, surety, fidelity or bonding company as surety or by two or more of such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a local officer. No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval.

C. Official bonds, with the oath endorsed thereon, shall be filed in the proper office within the following time: (1) of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election; (2) of all appointed officers, within 30 days after their appointment; and (3) of officers elected at any special election and city officers, within 30 days after the canvass of the votes of the election at which they were chosen. The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, Section 5 of the Constitution of Nebraska.

D. The officers with whom any official bonds are required by law to be filed shall carefully record and preserve the same in their respective offices and shall give certified copies thereof, when required, under the seal of their office and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

E. If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by Neb. Rev. Stat. §§11-101 to 11-122, the provisions of Neb. Rev. Stat. §11-115 shall apply.

F. Any person appointed to fill a vacancy, before entering upon the duties of the

office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. When the incumbent of an office is re-elected or re-appointed, he or she shall qualify by taking the oath and giving the bond as above directed; but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the non-election or non-appointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within ten days from the time at which his or her successor, if elected, should have qualified.

(Neb. Rev. Stat. §§11-103 to 11-105, 11-109 to 11-113, 11-115 to 11-117, 17-604)

### **SECTION 1-105: EXAMINATION AND DUPLICATION OF PUBLIC RECORDS; FEES; CONFIDENTIAL RECORDS**

All citizens of the City and all other persons interested in the examination of the public records of the City are fully empowered and authorized to examine such records and make memoranda copies thereof as provided in Neb. Rev. Stat. §84-712. Payment of fees may be required. Records which may be withheld from the public shall be as stated in Neb. Rev. Stat. §84-712.05. (Neb. Rev. Stat. §§84-712, 84-712.03 through 84-712.06)

### **SECTION 1-106: COMPENSATION**

A. The officers and employees of the City shall receive such compensation as the mayor and council shall fix by ordinance and such wage and salary schedule shall be kept on file at the office of the city clerk for public inspection. The City may enact ordinances or bylaws to regulate and prescribe the compensation of officers not provided for in state law. No officer shall receive any pay or perquisites from the City other than his or her salary. The council shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the City.

B. The compensation of any elective official of the City shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the City Council, a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. The official may be rehired after the term of office during which he or she resigned at a greater salary.

(Neb. Rev. Stat. §§17-108, 17-108.02, 17-604, 17-611, 17-612)

### **SECTION 1-107: PAY PLAN DEVELOPMENT; INCREASES; MERIT PROMOTION**

A. The mayor shall be responsible for the development, maintenance, and

continued administration of the pay plan as set forth herein.

B. After an employee of the City has satisfactorily completed a six-month probationary period in a position, such employee's rate of pay may be increased between one-half to one and one-half of the next higher step, provided that the recruitment rate was the beginning step of the pay range. Additional increases between one-half to one and one-half steps within a range may be provided at one-year intervals until the employee has advanced to the maximum step of the range. When an employee is promoted to a new class in salary range, the ensuing merit increases will be calculated from the date of promotion and will normally occur six months or one year later, depending upon whether the promotion is to a step or a higher step. In all cases, the department heads shall certify to the appointing authority that the employee's service has been satisfactory.

C. The city clerk shall notify the operating departments of employees who are eligible for merit increases. The department heads shall certify and recommend merit increases. Merit increases may only be made effective on the first of the month. Pay increases to any city employee as a result of a promotion may be made on the effective date of the promotion, subject to approval of the mayor. It is advisable to have pay increases as a result of promotions become effective at the beginning of the pay period.

#### **SECTION 1-108: CONFLICT OF INTEREST**

A. For purposes of this section, "officer" shall mean: (1) any member of any council or commission of the City; (2) any appointed official if such city official serves on a council or commission which spends and administers its own funds and is dealing with a contract made by such council or commission; or (3) any elected city official. "Immediate family" shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the City shall be permitted to benefit from any contract to which the City is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the City or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the City has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:



1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; an individual who occupies a confidential professional relationship protected by law shall be exempt from the definition herein and this definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker; or
2. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1) through (3) above, if an officer's parent, spouse or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to

applicable competitive bidding requirements and shall be fair and reasonable to the City.

F. The city clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the City in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D)(1) through (3) above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the City; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

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

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §§49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §§49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The City may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such city may have an interest and such officer need not file for such contracts a disclosure statement provided for in said sections.

K. No officer shall receive any pay or perquisites from the City other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the City. (Neb. Rev. Stat. §§17-611, 18-305 through 18-312, 49-1408, 49-1425, 49-14,103.01 through 49-14,103.03, 49-14,103.06) (Am. Ord. Nos. 1147, 10/5/83; 1154, 5/2/84; 1168, 11/7/84; 1207, 11/12/86)

## Article 2 – Elected Officials

### SECTION 1-201: ELECTION

The mayor and four City Council members shall be nominated at the statewide primary election and elected at the statewide general election. They shall serve for terms of four years or until their successors are elected and qualified. Any person seeking elective office in the City shall be residents and registered voters prior to holding such office and shall not hold any other public elective public office. Two council members' terms shall expire every two years. (Neb. Rev. Stat. §§17-103, 32-404, 32-533)

### SECTION 1-202: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

A. The mayor and members of the council shall hold no other elective or appointive office or employment with the City.

B. For purposes of this section:

1. "Elective office" means any office which has candidates nominated or elected at the time of a statewide primary election; any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; any office which has candidates elected at the time of a statewide general election; any office which has candidates nominated or elected at a city election; and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature; and
2. "High elective office" means a member of the Legislature; an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 3 or 10 of the Constitution of Nebraska; or a county, city or school district elective office.

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

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

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

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

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

H. Notwithstanding subsections (E) through (G) of this section, any person holding more than one high elective office on September 13, 1997, shall be entitled to continue to serve the remainder of all terms for which he or she was elected or appointed. (Neb. Rev. Stat. §§17-108.02, 32-109, 32-603, 32-604)

### **SECTION 1-203: MAYOR; POWERS AND DUTIES**

A. The mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. He or she shall have the general and immediate control over all property and officials, whether elected or appointed, of the City.

B. The mayor shall preside at all meetings of the City Council and when the council consists of four members as established by ordinance, he or she shall be deemed a member of the council for purposes of establishing a quorum when the mayor's presence is necessary to establish the quorum.

C. 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 (quorum) 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.

D. The mayor shall sign the city clerk's minutes of all meetings, all resolutions which have been passed and warrants for the payment of money when ordered by the City Council. The mayor's veto powers shall be as provided in Section 1-405(C) herein.

E. The mayor, with the consent of the council, may appoint such officers as shall be required by ordinance or otherwise required by law. Their terms of office shall be as

provided in Section 1-501. Such officers may be removed from office by the mayor. He or she may, by and with the consent of the council, appoint such a number of regular police officers as may be necessary and may remove the same.

F. 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 improve the finances, the police, health, security, ornament, comfort, and general prosperity of the City.

G. 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.

H. The mayor shall have such jurisdiction as may be vested in him or her by ordinance over all places within five miles of the corporate limits of the City for the enforcement of any health or quarantine ordinance and regulation thereof. He or she shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within one-half mile of the corporate limits of said city.

I. The mayor shall have power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the City.

J. The mayor shall have such other duties as the City Council may by resolution confer upon him or her or in any other matters which the laws of the State of Nebraska repose in him or her.

(Neb. Rev. Stat. §§17-105, 17-107, 17-110 through 17-114, 17-117)

#### **SECTION 1-204: MAYOR; VACANCY**

Whenever a vacancy occurs in the office of mayor or in case of his or her disability or absence, the president of the council shall exercise the office of mayor until such vacancy is filled or such disability is removed or, in case of temporary absence, until the mayor returns. If the president of the council shall for any cause assume the office of mayor for the remainder of the unexpired term, there shall be a vacancy on the council which shall be filled as provided in Section 1-208 (City Council; Vacancy). (Neb. Rev. Stat. §32-568)

#### **SECTION 1-205: CITY COUNCIL; POWERS AND DUTIES**

The governing body of the City shall be the City Council, which shall exercise all the powers which have been or may be authorized by law. The council shall have the power to make all such ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State, as may be expedient for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories, to enforce all ordinances by inflicting fines or penalties for the breach thereof, and to assess such taxes and fees as are necessary and appropriate. (Neb. Rev. Stat. §§17-505,

19-611)

### **SECTION 1-206: CITY COUNCIL; PRESIDENT**

The City Council shall elect one of its members each year who shall be styled the president of the council, who shall preside at all meetings of the council in the absence of the mayor. In the absence of the mayor and the president, the council shall elect another member to occupy their place temporarily, who shall be styled acting president of the council. Both the president of the council and the acting president, when occupying the position of the mayor, shall have the same privileges as the other members of the City Council and all acts of the president or acting president of the council, while so acting, shall be as binding upon the council and upon the City as if done by the elected mayor. (Neb. Rev. Stat. §§17-148, 19-617)

### **SECTION 1-207: RESIGNATIONS**

All resignations of the mayor and council members shall be in writing and submitted to the City Council for acceptance. Resignations shall not be effective until accepted by formal action of the council. No resignation shall be accepted unless a quorum for conducting business will remain after acceptance of any such resignation.

### **SECTION 1-208: CITY COUNCIL; VACANCY**

A. In the case of any vacancy in the office of mayor or in case of his or her disability or absence, the president of the council shall exercise the office of mayor for the unexpired term, until such disability is removed or, in case of temporary absence, until the mayor returns. If the president of the council assumes the office of mayor for the unexpired term, there shall be a vacancy on the council. Other reasons for a vacancy include resignation or death of the incumbent, moving from his or her precinct, or other events listed in Neb. Rev. Stat. §32-560. After notice and a hearing, a vacancy on the City Council shall also 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.

B. Except as otherwise provided in subsection (D) or (E) of this section or subsection (A) above, a vacancy in a city elective office 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.

C. 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 an 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. Every council member present shall cast a ballot for or against the nominee. Any member of the council who has been appointed to fill a vacancy on the council shall have the same rights, including voting, as if such person were elected.

D. The mayor and council may, in lieu of filling a vacancy in a city elective office as provided in subsection (B) of this section, call a special city election to fill such vacancy.

E. 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.

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

(Neb. Rev. Stat. §§17-107, 19-3101, 32-560, 32-568, 32-569, 32-1308) (Ord. No. 1286, 02/18/91)





## Article 3 – Appointed Officials

### SECTION 1-301: APPOINTMENT

A. The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. All officers appointed by the mayor and confirmed by the council, except regular police officers, shall hold office until the end of the mayor's term of office and until their successors are appointed and qualified, unless sooner removed, except that if the City has a water commissioner, he or she shall be appointed for one year and may at any time be removed from office for sufficient cause by a two-thirds vote of the City Council.

B. The mayor, by and with the consent of the City Council, may appoint such a number of regular police officers as may be necessary. The council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. All police officers appointed by the mayor and council may be removed, demoted, or suspended at any time by the mayor. A police officer, including the chief of police, may appeal to the council such removal, demotion, or suspension with or without pay. After a hearing, the council may uphold, reverse, or modify the action.

C. The City may enact ordinances or bylaws to regulate and prescribe the powers, duties, and compensation of officers not provided for in state law. If the mayor and City Council appoint any of the officials specified within this article or any other officials, they shall have the powers and duties, if any, provided in this article or otherwise provided by city ordinances and state law.

(Neb. Rev. Stat. §§17-107, 17-604, 81-1438) (Am. Ord. No. 1394, 9/10/97)

### SECTION 1-302: MERGER OF OFFICES

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

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §17-108.02) (Am. Ord. No. 1165, 11/7/84)

**SECTION 1-303: CITY ADMINISTRATOR/CLERK/TREASURER POSITION  
CREATED**

The office and employment of the city administrator as described and defined in Section 1-304, the office and employment of the city clerk as described and defined in Section 1-305, and the office and employment of the city treasurer as described and defined in Section 1-306 may be combined and merged into an office titled "city administrator/clerk/treasurer." This combination shall occur automatically in the event the mayor appoints and the City Council confirms the same individual to all three positions. The duties, responsibilities, and privileges of any combined office of the city administrator/clerk/treasurer shall be the sum total of the duties and privileges described and defined for those positions in this municipal code. The office 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 of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. In the event three different individuals are appointed in the separate capacities, they shall serve individually and perform their separate duties as specified by this code. (Am. Ord. No. 1470, 10/13/03)

**SECTION 1-304: CITY ADMINISTRATOR**

A. The office of city administrator shall be filled by appointment of the mayor by and with the consent of the City Council. The person filling such office shall serve at the mayor's pleasure. The city administrator shall be the chief administrative officer of the City and shall serve as administrative agent for the mayor and council in the supervision of the offices and good government of the City. All city departments, except the Police Department, if any, shall be under the administrative supervision and direction of the city administrator, and the mayor and council shall deal with all departments of the City and employees through the city administrator.

B. In the performance of this employee's role as chief administrative officer of the City, the city administrator shall have the following duties and powers:

1. Maintain all city, general, utility, payroll, revenue-sharing and bond retirement financial records and reports.
2. Supervise payroll, maintain permanent payroll records, collect payroll deductions and remit the same according to law.
3. Administer city comprehensive, business, employee health, dental, self-insurance, workmen's compensation, unemployment and other insurance programs and employee retirement programs.
4. Serve as city personnel director.
5. Assist and supervise all city department heads in general operation of their

departments. In pursuance of this provision, the city administrator shall meet monthly with department heads.

6. Supervise personnel evaluation programs.
7. Prepare and submit to the mayor annual evaluations of all city personnel under his or her supervision. Supervise city office personnel.
8. Coordinate employment application procedures and interviews.
9. Generally supervise the city zoning officer/building inspector and assistants.
10. Serve as city purchasing agent for all departments. Assume general responsibility in conjunction with department heads for maintenance of perpetual inventories for each department.
11. Assume general responsibility for accident, injury and damage reports and supervision over monthly department safety meetings.
12. Attend City Council, board, commission or committee meetings when indicated.
13. Assume general responsibility for budget preparation and periodic budget reports to mayor and council.

#### **SECTION 1-305: CITY CLERK**

A. The city clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. Within 30 days after any council meeting, the clerk shall prepare and publish the official proceedings in a legal newspaper of general circulation in the City and which was duly designated as such by the council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §§84-1201 to 84-1220, the clerk may transfer the journal of the council proceedings to the state archives of the Nebraska State Historical Society for permanent preservation.

C. The clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances, collect all occupation taxes and license money except where some other city officer is specifically charged with that duty, and keep a register of all licenses granted in the City and the purpose

for which they were issued.

D. The clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular funds from which the same are payable. At the end of each month the clerk shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

E. The clerk shall deliver all warrants, ordinances and resolutions under his or her charge to the mayor for his or her signature. The clerk shall also deliver to officers, employees, and committees all resolutions and communications which are directed to them. With the seal of the City, the clerk shall duly attest the mayor's signature on all ordinances, deeds and papers required to be attested to.

F. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. The clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the City Council or under the ordinances of the City. The printer's affidavit of publication shall be attached to each of the file copies of said notices if the said notices are required to be published or the city clerk's certificate under seal where the same are required to be posted only.

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

H. The clerk shall keep all city records, including a record of all licenses issued in a book with a proper index. The clerk shall include as part of the 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. The clerk shall endorse the date and hour of filing upon every paper or document so filed in the city office. All such filings shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The clerk shall keep copies of all notices required to be published or posted by order of the City Council or under the ordinances of the City. To each of the file copies of said notices shall be attached the printer's affidavit of publication if the said notices are required to be published, or the clerk's certificate under seal where the same are required to be posted only.

J. The clerk shall permit no records, public papers, or other documents of the City kept and preserved in the office to be taken therefrom except by such city officers as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The city clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution by the City Council and kept on file in the city office for public inspection.  
(Neb. Rev. Stat. §§17-605, 19-1102, 84-1201 through 84-1220, 84-712) (Am. Ord. No. 1316, 2/17/93)

## **SECTION 1-306: CITY TREASURER**

A. The treasurer of the City shall be the custodian of all money belonging to the corporation, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. The treasurer shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. The treasurer shall also file copies of such receipts with his or her monthly reports and shall, at the end of every month and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. The treasurer shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid, which warrants, with any and all vouchers held, shall be filed with his or her account in the clerk's office. If the treasurer fails to render an account within 20 days after the end of the month or by a later date established by the City Council, the mayor, with the advice and consent of the council members, may use this failure as cause to remove the treasurer from office.

B. The treasurer shall open the books and accounts for inspection by any citizen whenever any city fiscal record of public funds is involved. He or she shall also obtain from the county treasurer a monthly report as to the collection of delinquent taxes, collect all special taxes, allocate special assessments to the several owners, and balance the cash book daily.

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

D. 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 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 a member of the City Council, as a member of a Board of Public Works, or as any other officer of the City shall not disqualify such

bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

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

F. 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 City Council may, by resolution, direct and authorize said treasurer to invest said surplus funds in the outstanding bonds or registered warrants of said city, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 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.

G. The mayor and City 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.

H. It shall be the duty of the treasurer to prepare and publish annually within 60 days following the close of the city's municipal fiscal year a statement of receipts and expenditures of funds for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such publication. (Neb. Rev. Stat. §§17-606 through 17-609, 19-1101)

## **SECTION 1-307: CITY ATTORNEY**

The city attorney shall be the legal advisor of the City and shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the City or that may be ordered by the City Council; attend council meetings when requested; give an opinion upon matters submitted to him or her, either orally or in writing, as may be required; draft and review for legal correctness any ordinances, contracts, franchises, and other instruments as may be required; perform such other duties as may be imposed upon him or her by general law or ordinance. The council shall have the right to pay the city attorney compensation for legal services

performed by him or her on such terms as the council and attorney may agree and to employ additional legal assistance and pay for such legal assistance out of the funds of the City. (Neb. Rev. Stat. §17-610)

### **SECTION 1-308: POLICE; CONTRACT WITH COUNTY SHERIFF**

The City of Ainsworth may enter into a contract with the County Board of Brown County for police and law enforcement services to be provided by the Brown County sheriff's office. Whenever any such contract has been entered into, the sheriff or his deputy shall, in addition to his other powers and duties, have all the powers and duties of the city police chief within and for the City. If authorized by contract, the county sheriff shall direct the police work of the City and shall be responsible for the maintenance of law and order; act as health inspector except in the event the City appoints another person; file the necessary complaints in cases arising out of violations of city ordinances; and make all necessary reports required by the city ordinances or state laws. References to "chief of police" and "city police" in this municipal code shall mean the county sheriff and deputies. (Neb. Rev. Stat. §§17-121, 17-208, 19-3801)

### **SECTION 1-309: FIRE CHIEF**

The duties of the fire chief shall be as provided in Section 8-104.

### **SECTION 1-310: CITY PHYSICIAN**

A. The city physician shall be a member of the Board of Health and perform the duties devolving as the medical advisor of the said board. For the purpose of making examinations of the sanitary conditions of any property and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the City. He or she shall disinfect or fumigate the premises or persons in or about the premises when the same are quarantined. He or she shall issue such health certificates as are required by ordinance.

B. In all injuries where a liability may be asserted against the City, the city physician shall immediately investigate the said injuries, the extent thereof, and the circumstances and then report the results of the investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto.

C. The city physician shall call upon indigent sick persons and perform other professional services and duties as directed by the City Council or which may be required by state laws and city ordinances. The city physician shall receive as compensation such sum as the council may set from time to time. No compensation shall be received for services as a member of the City Board of Health.

(Neb. Rev. Stat. §17-121)

**SECTION 1-311: SPECIAL ENGINEER**

The City Council may employ a special engineer to make or assist the city engineer in making any particular estimate, survey, or other work. All records of the special engineer shall be public records which shall belong to the City and shall be turned over to his or her successor. The special engineer shall:

A. Make a record of the minutes of surveys and all other work done for the City and shall,

B. Accurately make all plats, sections, profiles, and maps as may be necessary when directed by the City Council.

C. Make estimates of the costs of labor and material which may be done or furnished by contract with the City upon request of the City Council.

D. Make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings.

E. Perform such other duties as the City Council may require.  
(Neb. Rev. Stat. §§17-568, 17-568.01, 17-919, 18-3301) (Am. Ord. No. 1144, 10/5/83)

**SECTION 1-312: PUBLIC WORKS COMMISSIONER; WATER AND SEWER SUPERINTENDENT; BOND; DUTIES**

A. The appointive offices of city water superintendent and sewer superintendent are hereby combined and merged. The office 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 of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

B. Pursuant to Neb. Rev. Stat. §17-541, the City Council shall appoint at its first regular meeting in December a public works commissioner (also designated as the water superintendent and/or sewer superintendent) to maintain immediate control and supervision over all employees and property that make up the city water and sewer systems, subject to the general control and direction of the council. The duties of the public works commissioner shall be those set forth herein and as set forth specifically in the job description adopted separately by the mayor and City Council. The public works (water/sewer) superintendent shall:

1. Before entering upon the discharge of duties, execute a bond to the City in a sum of not less than \$5,000.00 conditioned upon the faithful discharge of duties; the term of office shall be for one year or until a successor is



appointed.

2. When requested, make a detailed report to the council on the condition of the water and sewer systems and direct its attention to such improvements, repairs, extensions, additions and additional employees as he or she may believe are needed, along with estimates of the costs thereof.
3. Issue permits for all connections to the city sewer and water systems and inspect and supervise all repairs made to said systems.
4. Perform such other duties as the City Council may designate.

(Neb. Rev. Stat. §17-107; 17-541)

### **SECTION 1-313: WATER SUPERINTENDENT**

The water superintendent shall:

A. Have general supervision and control over the water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, all machinery and appliances used in connection with producing and distributing water to inhabitants of the City. All actions, decisions, and procedures of the water superintendent shall be subject to the general directives and control of the City Council.

B. Have the general control and supervisory authority over all employees of the water system which the City Council may from time to time hire to operate and maintain the said system.

C. Collect all money received by the City on account of the said system of waterworks, unless some other official is specifically designated, and shall faithfully account for and pay over to the city treasurer all such money collected in the name of the City, receiving a receipt from the city treasurer for the depository evidence. This receipt shall then be filed with the city clerk, and a second copy shall be kept by the said superintendent.

D. Make a detailed report to the City Council at least once every six months of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent.

E. Perform such additional duties as may be prescribed by the City Council.

(Neb. Rev. Stat. §17-107, 17-541, 17-543)

**SECTION 1-314: SEWER SUPERINTENDENT**

The sewer superintendent shall have the immediate control and supervision over all the employees and property that make up the city sewer system, subject to the general control and directives of the City Council. He or she shall:

A. At least every six months, make a detailed report to the City Council on the condition of the sewer system and direct its attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed, along with an estimate of the cost thereof.

B. Issue permits for all connections to the city sewer system.

C. Inspect and supervise all repairs made to the said system.

D. Have such other duties as the City Council may delegate.  
(Neb. Rev. Stat. §17-107)

**SECTION 1-315: STREET SUPERINTENDENT**

The city street superintendent shall, subject to the orders and directives of the City Council:

A. Have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges.

B. See that gutters and drains therein function properly and that the same are kept in good repair.

C. At the request of the City Council, make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges and direct its attention to such improvements, repairs, extensions, additions, and additional employees as he or she may believe are needed to maintain a satisfactory street system, along with an estimate of the cost thereof.

D. Issue such permits as the City Council may direct.

E. Perform such other duties as the City Council may require.  
(Neb. Rev. Stat. §17-107, 17-119)

**SECTION 1-316: WASTEWATER TREATMENT PLANT SUPERINTENDENT**

The wastewater treatment plant superintendent shall:

A. Have the immediate control and supervision over all the employees assigned to work at the plant and property that makes up said plant, subject to the general control

and directives of the City Council.

B. At least every six months, make a detailed report to the council on the condition of the plant and direct its attention to such improvements, repairs, additions, and additional employees as he or she may believe are needed, along with an estimate of the cost thereof.

C. Inspect and supervise all repairs made to said plant.  
(Ord. No. 1037, 5/16/79)

### **SECTION 1-317: BUILDING INSPECTOR**

The duties of the city building inspector shall be as provided in Chapter 9, Section 9-101.

### **SECTION 1-318: CODE ENFORCEMENT OFFICER**

When necessary, the City Council shall appoint a code enforcement officer, who shall be charged with investigating municipal code violations and assisting the city attorney in the prosecution of such violations. He or she shall verify and document such violations and issue code violation notices to offenders. The code enforcement officer shall not have authority to issue citations for such code violations but shall only provide such information to the city attorney, who shall use such information in prosecution of the offenses. (Neb. Rev. Stat. §17-208)



## Article 4 – Meetings

### SECTION 1-401: DEFINED

“Meetings” as used in this article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409[2]) (Am. Ord. No. 1143, 10/5/83)

### SECTION 1-402: PUBLIC BODY DEFINED

“Public body” as used in this article shall mean: (A) the City Council, (B) all independent boards, commissions, bureaus, committees, councils, sub-units, or any other bodies now or hereafter created by Constitution, statute, ordinance, or otherwise pursuant to law; and (C) advisory committees of the bodies listed above. This article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent bodies. (Neb. Rev. Stat. §84-1409[1]) (Am. Ord. Nos. 1143, 10/5/83; 1318, 2/10/93)

### SECTION 1-403: RIGHTS OF THE PUBLIC; OPEN MEETINGS ACT

A. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. At least one current copy of the Open Meetings Act shall be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.

B. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of the City Council except for closed meetings called pursuant to Section 1-407 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

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

D. The council shall not require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The council may require any member of the public

desiring to address the body to identify himself or herself. The council may allow a member of the public or any other witness other than a council member to appear by means of video or telecommunications equipment.

E. The council shall not, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. The council shall not be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state. The publicized notice herein required may designate some other public building or other specified place.

F. The council shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting and shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. Rev. Stat. §§84-1408, 84-1411, 84-1412, 84-1414) (Am. Ord. Nos. 1143, 10/5/83; 1186, 11/6/85; 1218, 9/2/87)

#### **SECTION 1-404: NOTICE; AGENDA**

A. The City Council shall give reasonable advance publicized notice of the time and place of each meeting by (1) publication in a newspaper of general circulation within the City and, if available, on such newspaper's website; or (2) by posting written notice in three conspicuous public places in the City. If posted, such notice shall be posted in the same three places for each meeting. Such notice shall be transmitted to all council members and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the city office during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a City Council meeting scheduled outside the corporate limits. The council shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(Neb. Rev. Stat. §84-1411[1]) (Am. Ord. Nos. 1143, 10/5/83; 1217, 9/2/87)

#### **SECTION 1-405: NOTICE TO NEWS MEDIA**

The city clerk, secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411[4])

**SECTION 1-406: PLACE, DAY, TIME; QUORUM**

A. The meetings of the City Council shall be held in the meeting place designated by the mayor and council. Regular meetings shall be held on the second Wednesday of each month at the hour of 5:00 p.m. A majority of the council shall constitute a quorum for the transaction of any business but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

B. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the council shall be called to order by the mayor, if present, or if absent, by the president of the council. In the absence of both the mayor and the president of the council, the meetings shall be called to order by the president *pro tempore*.

(Neb. Rev. Stat. §17-105) (Am. Ord. Nos. 1095, 1/6/82; 1187, 11/6/85; 1253, 7/7/89; 1284, 1/14/91; 1371, 5/8/96; 1536, 6/13/18)

**SECTION 1-407: CLOSED SESSIONS**

A. The City Council may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

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

B. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to the council.

C. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The City Council shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason

for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" shall include a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by council members to legal counsel or other negotiators in closed sessions authorized under subsection (A) of this section.

D. Any City Council member shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the council members. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. The City Council shall not fail to invite a portion of its members to a meeting and the council shall not designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

F. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of the council members at which there is no meeting of the council then intentionally convened, if there is no vote or other action taken regarding any matter over which the council has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Am. Ord. No. 1315, 2/17/93)

## **SECTION 1-408: ORDER OF BUSINESS**

Promptly at the hour set by law on the day of each regular meeting, the mayor, the members of the council, the city clerk, and such other city officials that may be required shall take their regular stations in the meeting place and the business of the City shall be taken up for consideration and disposition in the following order:

- A. Roll call;
- B. Reading and approval of the minutes of the previous meeting; unless a reading of the minutes is requested by a member of the council, such minutes may be approved without reading if the city clerk has previously furnished each member with a synopsis thereof;
- C. Reports of department heads;
- D. Treasurer's report;
- E. Claims;
- F. Communications;
- G. Unfinished business;



- H. New business;
- I. Miscellaneous business;
- J. Announcements;
- K. Adjournment.

## **SECTION 1-409: PUBLIC PARTICIPATION; PROCEDURE**

A. The mayor or presiding officer of the City Council shall provide opportunity during council meetings for discussion by interested persons or their authorized representatives on any council bill or other matter before the council prior to final passage; provided, preference shall be given to any person who shall have requested an opportunity to appear as provided in subsection (B).

B. Any person desiring to personally address the council on any matter not then before it shall notify the city clerk in writing of such desire at least four days prior to the meeting at which he or she wishes to appear.

C. Any person may direct a written communication to the City Council on any matter concerning city business by directing the communication to the council through the city clerk. Any such written communication shall be placed on the agenda for the next regular council meeting.

D. After a motion is made in the City Council, no person except a member of the council shall address the body.

E. The City Council shall, from time to time, make such rules as it may deem necessary to fulfill and carry out the intent of the provisions of this section. Each person addressing the council shall step up to the council table, give his or her name and address for the records, and unless additional time is granted by the council, shall limit the address to five minutes. All remarks shall be addressed to the council as a body and not to any individual member thereof. No person, other than council members and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the mayor. No question shall be asked of a council member except through the presiding officer.

## **SECTION 1-410: RULES OF DEBATE; PARLIAMENTARY PROCEDURE**

A. *Getting the Floor; Improper References to be Avoided.* Every council member desiring to speak shall address the chair and upon recognition by the presiding officer shall confine himself/herself to the question under debate, avoiding all indecorous language.

B. *Interruptions.* A member, once recognized, shall not be interrupted when speaking, unless it is to call to order or as otherwise provided in this article. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined and, if in order, shall be permitted to proceed.

C. *Yielding the Floor.* A council member having the floor shall yield the same for a point of order addressed to the chair, a question of personal privilege raised by any member, or any inquiry for information addressed to the chair. He or she may, upon request of any other member, temporarily yield the floor for any interrogation or a statement by any member, at the conclusion of which he or she will again be entitled to the floor.

D. *Limitation on Debate.* The council may, by a general rule, limit debate or discussion on any matter; may, by motion adopted at the time, limit debate or discussion on any particular subject or motion; and may, by majority vote of the members present, extend any such limit. No member shall speak more than once on any subject under discussion without the permission of the presiding officer.

E. *Privilege of Closing Debate.* The council member moving for the adoption of an ordinance or resolution shall have the privilege of closing the debate.

F. *Motion to Reconsider.* A motion to reconsider any action taken by the council may be made at any time prior to approval of the minutes of the meeting at which such motion was made. Such motion must be made by one of the prevailing sides but may be seconded by any member and may be made at any time and have precedence over all other motions, and it shall be debatable. Nothing in this section shall be construed to prevent any member of the council from making or remaking the same or any other motion at a subsequent council meeting.

G. *Remarks of Council Member Entered in Minutes.* A council member may request, through the mayor, the privilege of having an abstract of his or her statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, such statement shall be entered in the minutes.

H. *Synopsis of Debate Entered in Minutes.* The city clerk may be directed by the mayor, with consent of the council, to enter in the minutes a synopsis of the discussion of any question coming regularly before the body.

I. *Motions to Adjourn.* A motion to adjourn shall always be in order and shall be decided without debate.

J. Unless otherwise specified in this article, the City Council shall be governed in all matters of procedure by the rules known as *Robert's Rules of Order, Newly Revised*, except that the mayor shall vote only in case of a tie.  
(Am. Ord. No. 1031, 4/4/79)

## **SECTION 1-411: DECORUM**

While the City Council is in session, the council members shall preserve order and decorum and no member shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the council nor disturb any member while speaking nor refuse to obey the orders of the council or its presiding officer, except as otherwise

provided in this article. No person attending a public meeting of the council shall make personal, impertinent or slanderous remarks nor otherwise disturb the order or decorum of any council meeting. The person designated by the mayor shall be sergeant at arms at the City Council meetings and shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meetings. The sergeant at arms, at the direction of the presiding officer, shall remove any person violating the provisions of this section.

### **SECTION 1-412: MINUTES**

A. The City Council shall cause minutes to be kept of all meetings, which shall include a record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the City Council present or absent at each convened meeting. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

B. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the council in open session, and the record shall state how each member voted or if the member was absent or not voting.

C. The vote to elect leadership within the council may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes.

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

E. Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that the City may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency. If the City maintains a public website, (1) the agenda shall be posted on the site at least 24 hours before the meeting, and (2) minutes shall be posted on the site at such time as they are available for inspection by the public as described above. Minutes shall be available on the public website for at least six months.

(Neb. Rev. Stat. §§17-616, 84-1413)

### **SECTION 1-413: REORGANIZATIONAL MEETING; STANDING COMMITTEES**

A. Council members elected to office shall convene at the regular place of meeting on the first regular meeting in December each year in which a city election is held immediately after the prior council adjourns and proceed to organize themselves for the ensuing year. The mayor shall call the meeting to order. The council shall then

proceed to examine the credentials of its members and other elective officers to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the council shall then elect a member of the body who shall be styled as "president of the council." The mayor shall then nominate candidates for appointive offices and then proceed with the regular order of business.

B. At the organizational meeting of the City Council, the mayor shall appoint members to such standing committees as the council may by ordinance or resolution create.

1. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one year, unless reappointed.
2. Meetings of all standing committees may be held at such time and place as the committee shall determine. The committee may, in its discretion, determine who besides its members may be present.
3. All standing committees shall make written reports to the City Council when directed to do so by the mayor or council. All reports and resolutions of the committees shall be filed with the city clerk and entered on the minutes of the council.

(Neb. Rev. Stat. §17-104)

#### **SECTION 1-414: SPECIAL MEETINGS**

Special meetings may be called by the mayor or by a majority of the City Council, the object of which shall be submitted to the council in writing. The city clerk shall notify the council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be out of the state or physically unable to be present. The call and object as well as the disposition thereof shall be entered upon the journal by the city clerk. (Neb. Rev. Stat. §17-106) (Ord. No. 1187, 11/6/85)

#### **SECTION 1-415: EMERGENCY MEETINGS**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-405 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411) (Am. Ord. No. 1143, 10/5/83)

## **SECTION 1-416: VIRTUAL CONFERENCING**

A. A meeting of the City Council may be held by virtual conferencing when an emergency is declared by the governor pursuant to the Emergency Management Act if the following conditions are met:

1. The council's territorial jurisdiction is included in the emergency declaration, in whole or in part.
2. Reasonable advance publicized notice is given as to the time and place of the meeting and such notice is transmitted to the mayor, all council members and the public. The notice shall include information regarding access for the public and news media. Section 1-405 (Notice to News Media) shall be complied with.
3. The council provides access by providing a dial-in number or a link to the virtual conference.
4. The council also provides links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act.
5. Reasonable arrangements are made to accommodate the public's right to hear and speak at the meeting and record the meeting.

B. In addition to any formal action taken pertaining to the emergency, the council may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the body.

C. The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in Section 1-412(A) and (D).

(Neb. Rev. Stat. §84-1409, 84-1411)



## **Article 5 – Ordinances, Resolutions, and Motions**

### **SECTION 1-501: GRANT OF POWER**

The City Council shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State of Nebraska as may be necessary and proper for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories and to enforce all ordinances by inflicting fines or penalties for the breach thereof. (Neb. Rev. Stat. §17-505) (Am. Ord. No. 1396, 9/10/97)

### **SECTION 1-502: PREPARATION BY CITY ATTORNEY**

The city attorney shall, on request of the mayor, City Council or any member thereof, prepare any ordinance or resolution.

### **SECTION 1-503: ORDINANCES; STYLE**

The style of all city ordinances shall be: "Be it ordained by the Mayor and City Council of the City of Ainsworth, Nebraska..." (Neb. Rev. Stat. §17-613)

### **SECTION 1-504: ORDINANCES; TITLE; AMENDMENTS AND REVISIONS**

A. No ordinance shall contain a subject not clearly expressed in its title.

B. 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 shall be repealed, except that an ordinance revising all the ordinances of the City and modifications to zoning building districts may be adopted as otherwise provided by law.  
(Neb. Rev. Stat. §17-614) (Am. Ord. No. 1396, 9/10/97)

### **SECTION 1-505: ORDINANCES; INTRODUCTION**

Ordinances shall be introduced in either of the following ways:

A. With the recognition of the mayor, a council member may, in the presence and hearing of a majority of the City Council, read aloud the substance of his or her proposed ordinance and file a copy of the same with the city clerk for future consideration; or

B. With the recognition of the mayor, a council member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the council, shall read aloud the substance of the same and shall file the same for future consideration.  
(Neb. Rev. Stat. §§17-614, 17-616) (Am. Ord. No. 1396, 9/10/97)

**SECTION 1-506: ORDINANCES; READING AND PASSAGE; MAYOR'S VETO**

A. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of the City Council. The mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the council (quorum), and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

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

C. 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, he or she shall notify the city clerk of the veto in writing. The clerk shall notify the 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. Rev. Stat. §§17-111, 17-614) (Am. Ord. No. 1396, 9/10/97)

**SECTION 1-507: ORDINANCES; PUBLICATION; EFFECTIVE DATE**

A. All ordinances of a general nature shall take effect after publication, within 15 days after they are passed, (1) in a legal newspaper in or of general circulation in the City or (2) in book, pamphlet, or electronic form.

B. The passage, approval, and publication of any ordinance in a newspaper shall be sufficiently proved by a certificate under seal of the City from the city clerk, showing that such ordinance was passed and approved and when and in what legal



newspaper the ordinance was published.

C. When an ordinance is printed in book, pamphlet, or electronic form, purporting to be published by authority of the City Council, the ordinance need not be otherwise published and such book, pamphlet, or electronic form shall be received as evidence of the passage and legal publication of such ordinance as of the date mentioned in such book, pamphlet, or electronic form in all courts without further proof.

(Neb. Rev. Stat. §17-613) (Am. Ord. Nos. 1206, 11/12/86; 1396, 9/10/97)

### **SECTION 1-508: ORDINANCES; EMERGENCY**

An ordinance passed in the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility, or other emergency requiring its immediate operation shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency notice shall recite the emergency, shall be passed by a three-fourths vote of the City Council, and shall be entered of record upon the city clerk's minutes.

(Neb. Rev. Stat. §§17-613, 19-3701) (Am. Ord. No. 1396, 9/10/97)

### **SECTION 1-509: RESOLUTIONS AND MOTIONS**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the City Council. The issue raised by any such resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote. (Neb. Rev. Stat. §17-616)



## **Article 6 – Fiscal Management**

### **SECTION 1-601: FISCAL YEAR**

The fiscal year of the City and any of its public utilities commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. Ord. No. 1372, 5/8/96)

### **SECTION 1-602: PUBLIC FUNDS DEFINED**

“Public funds” shall mean all money, including non-tax money, used in the operation and functions of governing bodies. For purposes of a city which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the City from a licensed lottery operator shall be considered public funds, and “public funds” shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503)

### **SECTION 1-603: DEPOSIT OF FUNDS**

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

B. The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The council shall approve such bond or giving of security. The city treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank or capital stock financial institution is also serving as mayor, as a member of the City Council, or as any other officer of the City shall not disqualify such bank or capital stock financial institution from acting as a depository for such city funds.

C. The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the

deposits are insured by such corporation and for deposits so insured, no other surety bond or other security shall be required.

D. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

E. The city treasurer may deposit the funds received and held by him or her with a cooperative credit association situated within the boundaries of the County or an adjoining county, if the City is the depositor, as well as in a commercial state or national bank if the cooperative credit association performs all the conditions precedent required of commercial state and national banks by the laws of this state to qualify them to receive deposits of such public funds. It shall not be necessary for the City, in making such a deposit of public funds, to purchase shares in such cooperative credit association or become a member thereof and such a cooperative credit association is hereby authorized and empowered to receive such money under such conditions.

(Neb. Rev. Stat. §§17-607, 77-2362 through 77-2364, 77-2386 through 77-2397) (Am. Ord. No. 1418, 7/8/98)

## **SECTION 1-604: INVESTMENT OF FUNDS**

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

*B. Interest-Bearing Deposits; Conditions.* Notwithstanding any other provision of law, to the extent that the funds of the City may be invested or deposited by the city treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;

2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the City with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the City.

C. *State Investment Officer.* The state investment officer may provide assistance and furnish advice regarding the investment of money to the City whenever such advice is requested. In connection with the rendering of such service, the state investment officer may charge and collect any fee he or she determines to be reasonable. (Neb. Rev. Stat. §§17-608, 17-609, 72-1259, 77-2341, 77-2365.02) (Am. Ord. No. 1259, 11/13/89)

### **SECTION 1-605: CREDIT CARDS; AUTHORITY TO ACCEPT**

A. The City Council may authorize city officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

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

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

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

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

F. When authorizing acceptance of credit card or charge card payments, the

City Council shall be authorized but not required to impose a surcharge or convenience fee, as set by resolution by the council and kept on file in the city office, upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the City. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the City by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

G. If payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the City shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment. "Electronic funds transfer" shall mean the movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. Rev. Stat. §13-609)

#### **SECTION 1-606: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

A. The City may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. §§45-601 to 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the City. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless (1) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid; and (2) at least 30 days have elapsed from the time the notice was sent. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

B. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. Rev. Stat. §45-623) (Ord. No. 1340, 5/18/94)

#### **SECTION 1-607: EXPENDITURES**

No city official shall have the power to appropriate, issue or draw any order or warrant on the city treasury for money unless the same has been appropriated or ordered by ordinance or the claim for the payment of such order or warrant has been allowed

according to the provisions of Neb. Rev. Stat. §§17-714 and 17-715 (Section 1-608 below), and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law. (Neb. Rev. Stat. §17-708)

## **SECTION 1-608: CLAIMS**

A. All liquidated and unliquidated claims and accounts payable against the City shall be presented in writing; state the name and address of the claimant and the amount of the claim; and fully and accurately identify the items or services for which payment is claimed or the time, place, nature and circumstances giving rise to the claim. As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. Rev. Stat. §13-903, the claimant shall file such claim within 90 days of the accrual of the claim in the office of the city clerk. The clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.

B. No costs shall be recovered against the City in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn.

(Neb. Rev. Stat. §§17-714, 17-715)

## **SECTION 1-609: WARRANTS**

All warrants drawn upon the city treasury must be signed by the mayor and countersigned by the city clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of such fund. (Neb. Rev. Stat. §17-711)

## **SECTION 1-610: BOND ISSUES**

The City Council 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 council shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §§10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

**SECTION 1-611: SINKING FUNDS; GIFTS OF MONEY OR PROPERTY**

A. The City is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by the provisions of this section, as stipulated by the donor. The title to the money or property so donated shall vest in the City Council or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds; provided, if the donation is real estate, the council may manage the same as in the case of real estate donated to the City for library purposes under the provisions of Neb. Rev. Stat. §§51-215 and 51-216.

B. The City Council, subject to all the limitations set forth in this section, shall have the power to levy a tax not to exceed that prescribed by state law upon the taxable value of all the taxable property within the City for a term not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of any one or more of the public improvements authorized by state law, including acquisition of any land incident to the making thereof. The City shall not be authorized to levy the tax or to establish the sinking fund as provided in this subsection if, having bonded indebtedness, such city has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in subsection (C).

C. Before any sinking fund or funds are established or before any annual tax is levied for any such planned city improvement mentioned in subsection (B) by the City, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City at the next general city election the proposition to provide the City with the specific municipal improvement planned for consummation under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at such election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper published in the City.

D. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the City cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund(s) shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at



such election in the manner prescribed in this subsection, the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. Provisions of state statutes relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section.

E. All funds received by the city treasurer, by donation or by tax levy, as hereinafter provided, shall be immediately invested by the treasurer as they accumulate, with the written approval of the City Council, in the manner provided in Neb. Rev. Stat. §77-2341. Whenever investments of such sinking fund or funds are made as aforesaid, the nature and character of the same shall be reported to the council and the investment report shall be made a matter of record by the city clerk in the proceedings of the council. The sinking fund(s) accumulated under the provisions of this section shall constitute a special fund for the purpose for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the City voting at a general election favoring such change in the use of the sinking fund; provided, the question of the change in the use of the sinking fund, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election.

(Neb. Rev. Stat. §§19-1301 through 19-1304, 77-2337, 77-2339)

## **SECTION 1-612: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE**

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

B. The City shall:

1. File notice of the assessments and the amount of assessment being levied for each lot or tract of land with the register of deeds; and
2. File a release of assessment upon final payment of each assessment with the register of deeds.

(Neb. Rev. Stat. §18-1216)

## **SECTION 1-613: SPECIAL ASSESSMENT FUND**

All money received on special tax assessment shall be held by the city 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 City for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

#### **SECTION 1-614: CONTRACTS; APPROPRIATION**

No contracts shall hereafter be made by the City Council or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the City, whether the object of the expenditures shall be ordered by the council or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §§17-708, 17-709)

#### **SECTION 1-615: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS**

A. Except as provided in Neb. Rev. Stat. §18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the City, no contract costing over \$30,000.00 shall be made for enlargement or general improvements such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, unless it is first approved by the City Council.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the City Council makes any contract in excess of \$30,000.00 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the city engineer and submitted to the council. In advertising for bids as provided herein, the council may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.

D. The advertisement provided for in subsections (B) and (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the City or, if no newspaper has general circulation in the City or County, by posting a written or printed copy thereof in each of three public places in the City at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived

in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the City Council and entered of record.

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

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

G. Any city bidding procedure may be waived by the City Council when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §§81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503 or when required to comply with any federal grant, loan or program.

H. Notwithstanding any other provisions of law or a home rule charter, a city which has established a joint purchasing division or agency by an interlocal agreement with any county may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the material division of the Department of Administrative Services. For purposes of this subsection:

1. "Personal property" includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

2. "Purchasing" or "purchase" means the obtaining of personal property by sale, lease, or other contractual means.

(Neb. Rev. Stat. §§17-568.01, 17-568.02) (Am. Ord. Nos. 1124, 11/3/82; 1142, 10/5/83; 1417, 7/8/98)

## **SECTION 1-616: ANNUAL AUDIT**

A. The City Council shall cause an audit of the city's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year, covering all financial transactions and affairs of the City for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City. Such audit shall be completed and the annual audit report made by such accountant shall be submitted within six months after the close of the fiscal year in any event, unless an extension of time shall be granted by a written

resolution adopted by the council.

B. If the City owns or operates any type of public utility or other enterprise which substantially generates its own revenue, that entity shall be audited separately from the City's other functions and the result shall appear separately in the annual audit report. Such audit shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

C. The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the City. When the accrual method is selected for the annual audit report, such report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.

D. At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the city clerk and one copy shall be filed with the state auditor of public accounts. The copy of the annual audit report submitted to the auditor of public accounts shall be accompanied by a supplemental report, if appropriate, by the accountant making the audit identifying any illegal acts or indications of illegal acts discovered as a result of the audit. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the City and shall at all times thereafter be open and subject to public inspection.

(Neb. Rev. Stat. §§13-606, 19-2903, 19-2904, 19-2905) (Am. Ord. No. 1175, 11/7/84)

#### **SECTION 1-617: GENERAL FUND**

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

#### **SECTION 1-618: BUDGET; FORM AND MANUAL INCORPORATED**

Budgets shall be prepared as provided in the Nebraska Budget Act, Neb. Rev. Stat. §§13-501 to 13-513. For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

#### **SECTION 1-619: BUDGET STATEMENT; APPROPRIATIONS**

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Neb. Rev. Stat. §17-706) (Am. Ord. Nos. 1344, 5/18/94; 1372, 5/8/96)

**SECTION 1-620: PROPOSED BUDGET STATEMENT; CONTENTS;  
CORRECTIONS; CASH RESERVE; LIMITATION**

A. The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the state auditor. The proposed budget statement shall be made available to the public by the council prior to publication of the notice of the hearing on the proposed budget statement pursuant to Section 1-621(A) and (B). A proposed budget statement shall contain the following information, except as provided by state law:

1. For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
2. For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50 percent of the total budget adopted exclusive of capital outlay items;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;
4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose of paying the principal or interest on bonds issued by the City Council and (b) for all other purposes;
5. A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand

total of all funds maintained by City Council;

6. A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

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

C. The City shall correct any material errors in the budget statement detected by the auditor or by other sources.

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

(Neb. Rev. Stat. §§13-504, 13-505) (Am. Ord. Nos. 1342, 5/18/94; 1400, 10/8/97; 1420, 8/12/98)

**SECTION 1-621: PROPOSED BUDGET STATEMENT; NOTICE; CONTENTS; HEARING; ADOPTION; CERTIFY TO BOARD; FILE WITH AUDITOR; DUTIES**

A. The City Council shall each year conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the council and shall not be limited by time. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the City's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed \$10,000.00 per year, the proposed budget summary may be posted at the city office. At such hearing, the City Council shall make at least three copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the council at the hearing and shall be given a reasonable amount of time to do so. After such hearing, the proposed budget statement shall be

adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately (1) the amount to be applied to the payment of principal or interest on bonds issued by the council and (2) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

B. Upon approval by the City Council, the budget shall be filed with the auditor. He or she may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. Rev. Stat. §§13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the council of such errors. The council shall correct any such error as provided in Section 1-625. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the auditor has notified the council.

C. When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.  
(Neb. Rev. Stat. §§13-506, 13-507) (Am. Ord. No. 1420, 8/12/98)

## **SECTION 1-622: ADOPTED BUDGET STATEMENT; CERTIFIED TAXABLE VALUATION; LEVY**

A. After publication and hearing thereon and within the time prescribed by law, the City Council shall file with and certify to the levying board or boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with Neb. Rev. Stat. §§13-518 to 13-522 or 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted budget, setting out separately (1) the amount to be levied for the payment of principal or interest on bonds issued by the City Council and (2) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. If the prime rate published by the Federal Reserve Board is 10 percent or more at the time of the filing and certification required under this subsection, the City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5 percent of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of

tax more than 1 percent greater or lesser than the amount determined under Section 1-620(D).

B. The City Council shall use the certified taxable values as provided by the county assessor pursuant to Neb. Rev. Stat. §13-509 for the current year in setting or certifying the levy. The council may designate one of its members to perform any duty or responsibility required of such body by this section.

(Neb. Rev. Stat. §13-508) (Am. Ord. Nos. 1343, 5/18/94; 1372, 5/8/96; 1400, 10/8/97; 1420, 8/12/98)

### **SECTION 1-623: EXPENDITURES PRIOR TO ADOPTION OF BUDGET**

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

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

(Neb. Rev. Stat. §§13-509.01, 13-509.02) (Ord. No. 519, 3/6/95)

### **SECTION 1-624: EMERGENCY; TRANSFER OF FUNDS**

Whenever during the current fiscal year it becomes apparent to the City Council that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the council may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Section 1-625 or by state law. Any officer(s) of the City Council who obligate funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor. (Neb. Rev. Stat. §13-510)

### **SECTION 1-625: REVISION OF ADOPTED BUDGET STATEMENT**

A. Unless otherwise provided by law, whenever during the current fiscal year it becomes apparent to the City Council that (1) there are circumstances which could not reasonably have been anticipated at the time the budget for the current year was



adopted, (2) the budget adopted violated Neb. Rev. Stat. §§13-518 to 13-522 such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with said sections, or (3) the City Council has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, the council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal. The public hearing requirement shall not apply to emergency expenditures pursuant to Neb. Rev. Stat. §81-829.51.

B. Notice of the time and place of the hearing shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the council's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. Such published notice shall set forth (1) the time and place of the hearing, (2) the amount in dollars of additional or reduced money required and for what purpose, (3) a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner, (4) a copy of the summary of the originally adopted budget previously published, and (5) a copy of the summary of the proposed revised budget.

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

D. Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the council shall file with the county clerk and with the auditor a copy of the revised budget, as adopted. The council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

E. Within 30 calendar days after the adoption of the budget, the City Council may, or within 30 calendar days after notification of an error by the auditor, the council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1 percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the council shall file a copy of the corrected budget with the county clerk and with the auditor. The council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. §13-511) (Am. Ord. No. 816, 5/6/03)

**SECTION 1-626: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION**

A. Pursuant to the Municipal Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the City.

B. The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the City's general fund shall have the same fiscal year as the City. For purposes of this section, "subsidization" shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the City's general fund in excess of the amount paid by the City to the proprietary function for actual service or services received.

C. If the City does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the city clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediately preceding fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
2. For the current fiscal year, the actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function. Such statement shall contain the estimated cash reserve for each fiscal year and shall

whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

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

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

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

G. Any income from a proprietary function which is transferred to the general fund of the City shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act.  
(Neb. Rev. Stat. §§18-2803 to 18-2808)

## **SECTION 1-627: PROPERTY TAX LEVY; CERTIFICATION OF AMOUNT**

The City Council shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the City, which the City requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The county clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the City is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien

on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively. Subject to Neb. Rev. Stat. §77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702. (Neb. Rev. Stat. §17-702) (Am. Ord. No. 1420, 8/12/98)

### **SECTION 1-628: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES**

The City Council has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309, to be levied upon the taxable valuation of all taxable property in the City. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the City in its annual budget and appropriation ordinance or in other legal manner as the council deems wisest and best. The City shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made by the City in addition to the all-purpose levy. (Neb. Rev. Stat. §§19-1309 through 19-1312) (Am. Ord. No. 1420, 8/12/98)

### **SECTION 1-629: PROPERTY TAX REQUEST; PROCEDURE; HEARING**

A. If the annual assessment of property would result in an increase in the total property taxes levied by the City, as determined using the previous year's rate of levy, the City's property tax request for the current year shall be no more than its property tax request in the prior year, and its rate of levy for the current year shall be decreased accordingly when such rate is set by the County Board of Equalization pursuant to Neb. Rev. Stat. §77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (C) of this section. If the council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (C) of this section and by passing a resolution or ordinance that complies with subsection (D) of this section. If the City seeks to increase its property tax request by more than the allowable growth percentage, it shall comply with the requirements of Neb. Rev. Stat. §77-1633 in lieu of the requirements in subsections (C) and (D) of this section.

B. If the annual assessment of property would result in no change or a decrease in the total property taxes levied by the City, as determined using the previous year's rate of levy, the City's property tax request for the current year shall be no more than

its property tax request in the prior year, and its rate of levy for the current year shall be adjusted accordingly when such rate is set by the County Board of Equalization pursuant to Neb. Rev. Stat. §77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (C) of this section. If the council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (C) of this section and by passing a resolution or ordinance that complies with subsection (D) of this section. If the City seeks to increase its property tax request by more than the allowable growth percentage, it shall comply with the requirements of Neb. Rev. Stat. §77-1633 in lieu of the requirements in subsections (C) and (D) of this section.

C. The resolution or ordinance required under this section shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the City at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the City's total operating budget, not including reserves, does not exceed \$10,000.00 per year, the notice may be posted at the city office. The hearing notice shall contain the following information: (1) The certified taxable valuation under Neb. Rev. Stat. §13-509 for the prior year, the certified taxable valuation under Neb. Rev. Stat. §13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year; (2) the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; (3) the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; (4) the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request; (5) the percentage increase or decrease in the property tax rate from the prior year to the current year; and (6) the percentage increase or decrease in the total operating budget from the prior year to the current year.

D. Any resolution or ordinance setting the City's property tax request under this section at an amount that exceeds its property tax request in the prior year shall include but not be limited to the following information:

1. The name of the political subdivision (City of Ainsworth);
2. The amount of the property tax request;
3. The following statements: (a) The total assessed value of property differs from last year's total assessed value by \_\_\_ percent; (b) the tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$\_\_\_\_\_ per \$100 of assessed value; (c) the City of Ainsworth proposes to adopt a property tax request that will cause its tax rate to be \$\_\_\_\_\_ per \$100 of assessed value; and (d) based on the proposed property tax request and

changes in other revenue, the total operating budget of the City will (increase or decrease) last year's budget by \_\_\_ percent; and

4. The record vote of the City Council in passing such resolution or ordinance.

E. Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

(Neb. Rev. Stat. §77-1632) (Am. Ord. No. 1420, 8/12/98)

**SECTION 1-630: PROPERTY TAX LEVY; GENERAL REVENUE; OTHER TAXES AND SPECIAL ASSESSMENTS**

The City shall have power to levy taxes for general revenue purposes in any one year not to exceed the amount authorized by state law upon the taxable value of all the taxable property in the City. The valuation of such property shall be ascertained from the books or assessment rolls of the county assessor. The City shall have power to levy any other tax or special assessment authorized by law. (Neb. Rev. Stat. §§17-506, 17-507)

**SECTION 1-631: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED**

Provisions for property tax levy, maximum levy, and authority to exceed the maximum levy for the support of the City shall be as provided in Neb. Rev. Stat. §§77-3442 through 77-3444.

**SECTION 1-632: SALES AND USE TAX; ONE PERCENT TAX IMPOSED**

A. By reason of the approval of the voters of the City at the general election held in the City on November 3, 1992, and pursuant to the Nebraska Local Option Revenue Act, the City does hereby impose a sales and use tax of one percent (1%) upon the same transactions within the City on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967. The administration of such sales and use tax shall be by the state tax commissioner pursuant to Neb. Rev. Stat. §77-27,143.

B. The sales and use tax imposed by subsection (A) became effective on the first day of April, 1993.

C. The proceeds of the sales and use tax imposed herein shall be placed in the general fund to be used as follows:

1. 60% for debt reduction;
2. 20% for property tax relief; and
3. 20% as needed for public parks, pool maintenance and improvements, fire

protection and equipment, cemeteries, and all other needs that may arise, including enhancement of medical facilities and services, encouraging immigration, new industries and investment in the community.

(Neb. Rev. Stat. §77-27,142 et seq.) (Ord. No. 1312, 11/11/92)

### **SECTION 1-633: SALES AND USE TAX; ADDITIONAL TAX IMPOSED**

A. By reason of the approval of the voters of the City at the general election held on November 26, 2007, and pursuant to the Nebraska Local Option Revenue Act, the City does hereby impose a sales and use tax of one-half of one percent (.5%) upon the same transactions within the City on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967. The administration of such sales and use tax shall be by the state tax commissioner pursuant to Neb. Rev. Stat. §77-27,143.

B. The additional sales and use tax imposed herein became effective on the first day of April, 2008, and shall remain in effect for a 15-year period, ending on March 31, 2023. The proceeds of the said sales and use tax shall be placed in the general fund to be used for funding of the City's economic development program.  
(Neb. Rev. Stat. §77-27,142 et seq.) (Ord. No. 1494, 11/26/07)





## Article 7 – Elections

### **SECTION 1-701: ELECTION ACT; NOTICE OF FILING DEADLINES; CERTIFICATIONS; FORMS**

A. When the City holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the City shall be held as provided in the act unless otherwise provided by the municipal code.

B. No later than December 1 of each odd-numbered year, the election commissioner or county clerk shall give notice to the City of the filing deadlines for the statewide primary election. No later than January 5 of each even-numbered year, the City Council shall certify to the election commissioner or the county clerk the name of the subdivision, 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.

C. The election commissioner or county clerk shall prescribe the forms to be used for certification to him or her.

(Neb. Rev. Stat. §32-404)

### **SECTION 1-702: AT LARGE ELECTIONS; NUMBER AND QUALIFICATIONS**

The mayor and four City Council members shall be elected from the City at large. They shall be residents and registered voters prior to holding office and shall not hold any other elective public office as provided in Section 1-202 herein. They shall be at least 18 years of age or 17 years of age and will attain the age of 18 on or before the first Tuesday after the first Monday in November of the then current calendar year. Other general requirements and limitations on filing are provided in Neb. Rev. Stat. §32-602. (Neb. Rev. Stat. §§17-103, 32-110, 32-602)

### **SECTION 1-703: TERMS OF OFFICE**

Commencing with the primary election in 1976 and every two years thereafter, all elected officers in the City shall be nominated at the statewide primary election and elected at the statewide general election. All elected officers in the City shall serve for terms of four years or until their successors are elected and qualified. (Neb. Rev. Stat. §32-533) (Am. Ord. No. 1096, 1/6/82)

### **SECTION 1-703: BALLOTS**

The election commissioner or county clerk shall prepare the necessary ballots for every election in which candidates for elective office are certified to or filed with the election commissioner or county clerk or whenever any question is to be submitted to a vote of the registered voters of any locality and not to the state generally. If a question is submitted to the registered voters of the City alone, the City or clerk shall provide the

necessary ballots. (Neb. Rev. Stat. §§32-805, 32-1202)

#### **SECTION 1-704: SPECIAL ELECTION**

A. Except as provided in Neb. Rev. Stat. §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. Rev. Stat. §§32-952 through 32-959. Any other special election shall be subject to subdivision (D) of this section.

B. 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. 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.

C. 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 Canvassing Board shall have the same force and effect as if made by the council.

D. 32-405 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. No special election shall be held under the Election Act in September of an even-numbered year except for a special election by a political subdivision pursuant to Neb. Rev. Stat. §13-519 or 77-3444 to approve a property tax levy or exceed a property tax levy limitation.  
(Neb. Rev. Stat. §§32-405, 32-559) (Am. Ord. Nos. 1166, 11/7/84; 1399, 10/8/97)

#### **SECTION 1-705: WRITE-IN CANDIDATES**

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. 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 to 32-621 or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 or 32-710. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists pursuant to Neb. Rev. Stat. §32-625(2) and the candidate files for the office by petition as prescribed in Neb. Rev. Stat. §§32-617 and 32-618 and files as a write-in candidate or is nominated by political party convention or committee as prescribed herein. A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §§32-615, 32-616)

## **SECTION 1-706: PETITION CANDIDATES**

A. Any registered voter who was not a candidate in the primary 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 to 32-621, or by nomination by political party convention or committee pursuant to Neb. Rev. Stat. §§32-627 or 32-710.

B. 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 subsection (2) of Neb. Rev. Stat. §32-625 and the candidate files for the office by petition as prescribed herein.

C. Petitions for nomination of candidates for City Council shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §§32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

D. The number of signatures of registered voters needed to place the name of a nonpartisan candidate upon the ballot for a city office for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the City, not to exceed 2,000. 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 registered voters voting for governor or president of the United States at the immediately preceding general election in the City, not to exceed 2,000.

E. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

F. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.

(Neb. Rev. Stat. §§32-616 through 32-618) (Am. Ord. Nos. 1166, 11/7/84; 1419, 8/12/98)

### **SECTION 1-707: CAUCUS CANDIDATES**

A. The City Council may by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the city election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published at least once in each of two consecutive weeks prior to said caucus in a newspaper of general circulation in the City.

B. The chairman of the caucus at which candidates are nominated shall notify in writing the city clerk of the candidates so nominated, not later than two days following the caucus. The city clerk shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she files with the city clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.

C. The provisions of Neb. Rev. Stat. §§17-601.01 and 17-601.02 shall not preclude in any manner any person from filing for the offices to which such sections are applicable, either by direct filing or by petition.

(Neb. Rev. Stat. §§17-601.01 through 17-601.03)

### **SECTION 1-708: FILING FOR OFFICE; FORMS**

A. *Primary Election.* Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the secretary of state as provided in Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. Candidates shall file for office between December 1 and March 1 prior to the date of the primary election.

B. *General Election.* Any candidate for the City Council may place his or her name on the general election ballot by filing a candidate filing form prescribed by the secretary of state as provided in Neb. Rev. Stat. §32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election.

C. All candidate filing forms shall contain the information required by Neb. Rev. Stat. §32-607. Said forms shall be filed in the office of the county clerk.  
(Neb. Rev. Stat. §§32-606, 32-607)

### **SECTION 1-709: FILING FEE**

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

B. 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 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 \$500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office *in forma pauperis*. The definition of "pauper" and requirements regarding income and assets shall be as provided in Neb. Rev. Stat. §32-608.

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 council, the filing fee shall be refunded.  
(Neb. Rev. Stat. §32-608)

**SECTION 1-710: NOMINATIONS WITHOUT OPPOSITION**

If the names of candidates properly filed for nomination at the primary election do not exceed two candidates for each position to be filled, any such candidates shall be declared nominated and their names shall not appear on any primary election ballots. The official abstract of votes kept by the County or State shall show the names of such candidates with the statement "Nominated Without Opposition." The election commissioner or county clerk shall place the names of such automatically nominated candidates on the general election ballot as provided in state law. (Neb. Rev. Stat. §32-811)

**SECTION 1-711: 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. Rev. Stat. §32-1525)

**SECTION 1-712: AUTOMATIC RECOUNT**

A. If it appears as evidenced by the abstract of votes that any candidate failed to be nominated or elected by a margin of (1) 1% or less of the votes received by the candidate who received the highest number of votes for the office at an election in which more than 500 total votes were cast or (2) 2% or less of the votes received by the candidate who received the highest number of votes for the office at an election in which 500 or fewer total votes were cast, then such candidate shall be entitled to a recount. Any losing candidate may waive his or her right to a recount by filing a written statement with the election commissioner or county clerk. All expenses of a recount under this section shall be paid by the City.

B. Recounts shall be made by the County Canvassing Board which officiated in making the official county canvass of the election returns. If any member of the Canvassing Board cannot participate in the recount, another person shall be appointed by the election commissioner or county clerk to take the member's place.

C. The election commissioner or county clerk shall be responsible for recounting the ballots for those candidates for whom the County Canvassing Board deems a recount to be necessary. The recount shall be made as soon as possible after the adjournment of the Canvassing Board.

D. The election commissioner or county clerk shall notify all candidates whose ballots will be recounted of the time, date, and place of the recount. Candidates whose ballots will be recounted may be present or be represented by an agent appointed by the candidate. The procedures for the recounting of ballots shall be the same as those used for the counting of ballots on election day.  
(Neb. Rev. Stat. §32-1119)

**SECTION 1-713: CERTIFICATE OF NOMINATION OR ELECTION**

The 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 city office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5 percent 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. §§32-558, 32-1033)

**SECTION 1-714: RECALL PROCEDURE**

Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §§32-1301 to 32-1309.





## **Article 8 – Penal Provision**

### **SECTION 1-801: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.