

CHAPTER 1 – CIVIL ADMINISTRATION

ARTICLE 1 – CITY ADMINISTRATION

- 1-101 CORPORATE EXISTENCE**
- 1-102 OFFICIAL SEAL**
- 1-103 BONDS; BLANKET BOND**
- 1-104 POLICE DEPARTMENT; RESERVE OFFICER BOND**
- 1-105 OATH OF OFFICE**

ARTICLE 2 – ELECTED OFFICIALS

- 1-201 ELECTION OF CITY OFFICIALS**
- 1-202 QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE**
- 1-203 MAYOR; SELECTION AND DUTIES**
- 1-204 MAYOR; VACANCY**
- 1-205 CITY COUNCIL; SELECTION AND DUTIES**
- 1-206 CITY COUNCIL; ORGANIZATION**
- 1-207 RESIGNATIONS**
- 1-208 VACANCIES**

ARTICLE 3 – APPOINTED OFFICIALS

- 1-301 APPOINTMENT; REMOVAL**
- 1-302 MERGER OF OFFICES**
- 1-303 CITY ADMINISTRATOR/CLERK/TREASURER POSITION CREATED**
- 1-304 ADMINISTRATOR/CLERK/TREASURER; DUTIES AND POWERS**
- 1-305 CITY CLERK**
- 1-306 CITY TREASURER**
- 1-307 TREASURER'S MONTHLY REPORT**
- 1-308 TREASURER'S ANNUAL REPORT**
- 1-309 CITY ATTORNEY**
- 1-310 CITY PHYSICIAN**
- 1-311 POLICE DEPARTMENT; CONTRACT WITH COUNTY SHERIFF'S OFFICE**
- 1-312 CITY POLICE OFFICER**
- 1-313 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY**
- 1-314 POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION**
- 1-315 SPECIAL ENGINEER**
- 1-316 WATER/SEWER SUPERINTENDENT POSITION CREATED**
- 1-317 PUBLIC WORKS COMMISSIONER; WATER AND SEWER COMMISSIONER; BOND; DUTIES**
- 1-318 CITY WATER SUPERINTENDENT; BOND; DUTIES**

- 1-319 CITY SEWER SUPERINTENDENT
- 1-320 CITY STREET SUPERINTENDENT
- 1-321 CITY WASTEWATER TREATMENT PLANT SUPERINTENDENT
- 1-322 CITY BUILDING INSPECTOR

ARTICLE 4 – MEETINGS

- 1-401 DEFINED
- 1-402 PUBLIC BODY DEFINED
- 1-403 OPEN MEETINGS INFORMATION; RIGHTS OF PUBLIC
- 1-404 PUBLIC PLACE; NOTICE, AGENDA
- 1-405 CLOSED SESSIONS
- 1-406 EMERGENCY MEETINGS
- 1-407 NOTICE TO NEWS MEDIA
- 1-408 CHANGE IN OFFICE
- 1-409 ORGANIZATIONAL MEETING; STANDING COMMITTEES
- 1-410 REGULAR MEETINGS
- 1-411 SPECIAL MEETINGS
- 1-412 ORDER OF BUSINESS
- 1-413 PUBLIC PARTICIPATION; PROCEDURE
- 1-414 PARLIAMENTARY PROCEDURE; ROBERT'S RULES OF ORDER
- 1-415 PARLIAMENTARY PROCEDURE; RULES OF DEBATE
- 1-416 DECORUM
- 1-417 MINUTES
- 1-418 VOTES
- 1-419 VIDEOCONFERENCING, WHEN ALLOWED

ARTICLE 5 – ORDINANCES, RESOLUTIONS, AND MOTIONS

- 1-501 GRANT OF POWER
- 1-502 PREPARATION BY CITY ATTORNEY
- 1-503 STYLE
- 1-504 TITLE
- 1-505 INTRODUCTION
- 1-506 PASSAGE
- 1-507 PUBLICATION OR POSTING
- 1-508 CERTIFICATE OF PUBLICATION OR POSTING
- 1-509 EMERGENCY ORDINANCES; EFFECTIVE DATE
- 1-510 AMENDMENTS AND REVISIONS

ARTICLE 6 – ELECTIONS

- 1-601 GENERALLY
- 1-602 TERMS OF OFFICE
- 1-603 SPECIAL, JOINT
- 1-604 SPECIAL ELECTION NOTICE

- 1-605 FILING FEE
- 1-606 BALLOTS; NOMINATIONS WITHOUT OPPOSITION
- 1-607 WRITE-IN CANDIDATES
- 1-608 PETITION CANDIDATES; PROCEDURE
- 1-609 EXIT POLLS
- 1-610 RECOUNTS
- 1-611 CERTIFICATE OF NOMINATION OR ELECTION
- 1-612 INABILITY TO ASSUME OFFICE
- 1-613 RECALL PROCEDURE

ARTICLE 7 – INITIATIVE AND REFERENDUM

- 1-701 DEFINITIONS
- 1-702 PETITIONS; BALLOTS
- 1-703 PETITION FORMS
- 1-704 DECLARATORY JUDGMENT
- 1-705 SIGNATURE SHEETS
- 1-706 PETITIONS; AFFIDAVIT
- 1-707 PETITIONS; NOTIFICATION
- 1-708 FREQUENCY OF OCCURRENCE
- 1-709 DIRECT VOTE
- 1-710 ELECTIONS
- 1-711 BALLOTS
- 1-712 INITIATIVE
- 1-713 REFERENDUM LIMITATIONS
- 1-714 REFERENDUM, PASSAGE
- 1-715 VIOLATIONS, PENALTIES
- 1-716 APPLICABILITY

ARTICLE 8 – FISCAL MANAGEMENT

- 1-801 FISCAL YEAR
- 1-802 PUBLIC FUNDS DEFINED
- 1-803 DEPOSIT OF FUNDS
- 1-804 INVESTMENT OF FUNDS
- 1-805 CLAIMS
- 1-806 WARRANTS
- 1-807 EXPENDITURES
- 1-808 GENERAL FUND
- 1-809 SINKING FUNDS
- 1-810 SPECIAL ASSESSMENT FUND
- 1-811 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH
COLLECTION AGENCY
- 1-812 BOND ISSUES
- 1-813 CONTRACTS AND PURCHASES; BIDDING AND OTHER
REQUIREMENTS

- 1-814 ANNUAL AUDIT; FINANCIAL STATEMENTS
- 1-815 BUDGET MANUAL; INCORPORATED BY REFERENCE
- 1-816 BUDGET STATEMENT; APPROPRIATIONS
- 1-817 EXPENDITURES PRIOR TO ADOPTION OF BUDGET
- 1-818 PROPOSED BUDGET STATEMENT; CONTENTS; FILING
- 1-819 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION;
CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION
- 1-820 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF
AMOUNT OF TAX
- 1-821 REVISION OF BUDGET
- 1-822 EMERGENCY; TRANSFER OF FUNDS
- 1-823 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET
STATEMENT; FILING; HEARING; ADOPTION; RECONCILIATION
- 1-824 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET
- 1-825 PROPERTY TAX LEVY; CERTIFICATION OF AMOUNT
- 1-826 PROPERTY TAX LEVY; INADEQUATE VALUATION
- 1-827 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED
- 1-828 ALL-PURPOSE LEVY ALLOCATION; ABANDONMENT;
EXTRAORDINARY LEVIES

ARTICLE 9 – COMPENSATION

- 1-901 CITY OFFICIALS
- 1-902 CONFLICT OF INTEREST
- 1-903 CONFLICT OF INTEREST; EXCEPTION
- 1-904 ELECTED OFFICIALS
- 1-905 CITY OFFICERS AND EMPLOYEES
- 1-906 PAY PLAN DEVELOPMENT
- 1-907 RANGE INCREASES
- 1-908 INCREASES, GENERALLY; MERIT PROMOTION

ARTICLE 10 – PENAL PROVISION

- 1-1001 VIOLATION; PENALTY

CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – City Administration

SECTION 1-101: CORPORATE EXISTENCE

The City of Ainsworth, Nebraska, 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.

SECTION 1-102: OFFICIAL 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: BONDS; BLANKET BOND

A. Official bonds shall be in form, jointly and severally, and shall be made payable to the City in such penalty as the City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum when one has been set by the State for each particular official. Every official bond of a city official shall be executed by the principal named in such bond and by at least two sufficient sureties who shall be freeholders of the county or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no city official, while still in his/her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the City. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the City and any persons who may be injured by a breach of the conditions of such bonds.

B. No bond shall be deemed to be given or complete until approved by the City Council and all sureties are endorsed in writing on the said instrument by the mayor and city clerk pursuant to the said approval of the Council. All official bonds meeting the conditions herein shall be filed with the city clerk for the official records, and it shall be the duty of the clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer, in the opinion of the Council, become insufficient, the City Council may by resolution fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by

such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

C. The bonds for city officials as set forth above may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City shall pay the premium for such bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required. (Neb. Rev. Stat. §11-103 through 11-118, 17-604)

SECTION 1-304: POLICE DEPARTMENT; RESERVE OFFICER BOND

No appointment of a law enforcement reserve officer shall be valid until:

A. A bond in the amount of \$2,000.00, payable to the City, has been filed with the city clerk by the individual appointed or

B. A blanket surety bond has been filed, arranged and paid for by the City Council, bonding all such officers of the City. Such bonds shall be subject to the provisions of Neb. Rev. Stat. Chapter 11, Article 1.
(Neb. Rev. Stat. §81-1444) (Ord. No. 1208, 11/12/86)

SECTION 1-305: OATH OF OFFICE

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

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____ according to law and 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)

Article 2 – Elected Officials

SECTION 1-201: ELECTION OF CITY OFFICIALS

The term of office of the mayor and City Council is four years. The members elected in the general election in 2006 shall continue to hold their offices until December 2010. Those members elected in 2008 shall continue to hold their offices until December 2012. Thereafter, two council members' terms shall expire every two years. The election of the council members shall be held on the date of the statewide general election.

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

A. Elected officials shall be residents and registered voters.

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

C. For purposes of this section:

1. "Elective office" means (a) any office which has candidates nominated or elected at the time of a statewide primary election; (b) any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; (c) any office which has candidates elected at the time of a statewide general election; (d) any office which has candidates nominated or elected at a city election; and (e) 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.
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.

D. 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 file 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.

E. 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/she has been elected or appointed to or holds another elected office.

F. 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.

G. 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.

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

(Neb. Rev. Stat. §17-108.02, 32-109, 32-603, 32-604)

SECTION 1-203: MAYOR; SELECTION AND DUTIES

A. The mayor shall:

1. Be elected at the city election and serve a four-year term of office. Any candidate for mayor must have resided within the City for 40 days prior to filing for the said office and must be a qualified taxpayer.
2. Have the general and immediate control over all property and officials, whether elected or appointed.
3. Preside at all meetings of the City Council and may vote when the vote shall be decisive and the Council is equally divided on any pending matter, legislation, or transaction. The mayor shall, for the purpose of such vote, be deemed to be a member of the Council.
4. 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; provided, any ordinance vetoed by the mayor may be passed over by a two-thirds vote by the council members but if the mayor neglects or refuses to sign any ordinance and returns it to the Council with objections in writing at the next regular meeting, the same shall become a law without his/her signature.
5. From time to time communicate to the Council such information and rec-

ommendations as, in his/her opinion, may improve the City.

6. Have the power to remit fines or pardon any offense arising under the ordinances.
7. Have territorial authority over all places within five miles of the corporate limits for the enforcement of any health ordinance and one-half mile in all matters vested, except taxation.
8. Have such other duties as the City Council may by resolution confer upon him/her.

B. The mayor may:

1. Require any city official to exhibit accounts and make reports to the Council on any subject pertaining to his/her office at reasonable intervals.
2. Remove an appointed police officer at any time.

(Neb. Rev. Stat. §17-110 thru 17-117) (Ord. No. 1077, 5/6/81)

SECTION 1-204: MAYOR; VACANCY

A. Whenever a vacancy occurs in the office of mayor, or in case of 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 the case of temporary absence, until the mayor returns.

B. If the mayor is not present or is incapable of performing his/her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, then the president of the City Council shall perform those functions and duties. Should the council president not be present or be unable to perform those functions and duties, then the next most senior elected official shall perform those duties and functions. The line of succession for the remaining elected officials shall follow by seniority from the date originally elected. If more than one council member has the same date of seniority, then the most senior in age shall assume control.

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

D. 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 herein.

(Neb. Rev. Stat. §17-107)

SECTION 1-205: CITY COUNCIL; SELECTION AND DUTIES

The members of the City Council shall be elected and serve four-year terms. The City Council shall be the legislative division of the City, performing such duties and having such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Neb. Rev. Stat. §17-103, 17-104)

SECTION 1-206: CITY COUNCIL; ORGANIZATION

City Council members shall take office and commence their duties on the first regular meeting in December following their election. The newly elected council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided. All appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the city clerk shall report to the City Council the names of all members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Also see Section 1-409. (Neb. Rev. Stat. §17-104)

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 resignations shall be accepted unless a quorum for conducting business will remain after such acceptance of such resignation.

SECTION 1-208: VACANCIES

A. No person shall be eligible who is not a resident of the City at the time of election. Should any City Council member move from the City after elected, the office shall thereby become vacant.

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

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

D. The mayor shall, within four weeks after the regular meeting at which such

notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council, at which time the mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

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

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

G. The mayor shall cast his/her vote only in case of a tie vote of the Council.

H. All City Council members shall cast a ballot for or against each nominee.

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

J. If there are vacancies in the offices of a majority of the members of the Council, there shall be a special city election conducted by the secretary of state to fill such vacancies.

(Neb. Rev. Stat. §17-212, 32-4,152, 32-1406) (Ord. No. 1286, 02/18/91)

Article 3 – Appointed Officials

SECTION 1-301: APPOINTMENT; REMOVAL

A. The mayor, at the first regular meeting of the City Council held after taking office, or as soon thereafter as he/she can reasonably do so, with the consent of the City Council may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers shall retain their office for the term of the mayor or until removed as hereafter provided. The mayor, by and with the consent of the Council, shall appoint such a number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law.

B. All police officers and other appointed officials may be removed at any time by the mayor, except that if the City has a water commissioner, he/she may at any time be removed from office for sufficient cause by a two-thirds vote of the City Council.

(Neb. Rev. Stat. §17-107, 17-541, 81-1438) (Am. by Ord. No. 1394, 9/10/97)

SECTION 1-302: MERGER OF OFFICES

The City Council may in its discretion by ordinance combine and merge any elective, or appointive office or employment, except the mayor or a City Council member, with any other elective or appointive office so that one or more of such offices may be held by the officer or employee at the same time. Any offices 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. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Neb. Rev. Stat. §17-108. 02) (Am. by Ord. No. 1165, 11/7/84)

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

The appointive offices of city clerk, city treasurer and city administrator 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. (Am. by Ord. No. 1470, 10/13/03)

SECTION 1-304: ADMINISTRATOR/CLERK/TREASURER; DUTIES AND POWERS

A. The city administrator/clerk/treasurer shall be the chief administrative officer of the City and shall serve as administrative agent for the mayor and City Council in

the supervision of the offices and good government of the City. All departments of the City, except the Police Department, shall be under the administrative supervision and direction of the city administrator/clerk/treasurer, and the mayor and City Council shall deal with all departments of the City and employees through the city administrator/clerk/treasurer. Such office shall be filled by appointment of the mayor by and with the consent of the City Council and the person filling such office shall serve at the mayor's pleasure.

B. In the performance of this employee's role as chief administrative officer of the City, the city administrator/clerk/treasurer 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/ clerk/ treasurer 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/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 City Council.

SECTION 1-305: CITY CLERK

The city clerk shall:

A. Keep a record of all outstanding bonds against the City, showing when any bonds are sold, purchased, paid, or cancelled; at the end of the fiscal year, make a report of the bonds issued and sold during the year and the terms of each sale with each and every item and expense thereof; file all official bonds after the same shall have been properly executed and approved; and make the proper certificate of passage for attachment to original copies of all bond ordinances hereafter enacted by the City Council.

B. 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 and the purpose for which they were issued.

C. Keep all the records of the City, including a record of all licenses issued and 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.

D. Endorse the date and hour of filing upon every paper or document filed, properly docketing all such filings. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference, arranged in triplicate in a manner convenient for reference.

E. Keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable, making a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon at the end of each month.

F. Deliver all warrants, ordinances, and resolutions to the mayor for his/her signature, as well as resolutions and communications which are directed to various officers, employees, and committees.

G. With the seal of the City, duly attest the mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

H. Attend the meetings of the City Council and keep a correct journal of the proceedings of that body; within 30 days after any meeting of the Council, prepare and publish the official proceedings in a legal newspaper of general circulation in the City, 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.

I. Receive the claims of any person against the City and in the event that the said claim is disallowed in part or in whole, the clerk shall notify such claimant, agent or attorney by letter within five days after such disallowance and then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

J. Between July 15 and August 15 of each year, publish the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by state statutes and said publication shall be charged against the General Fund.

K. 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. 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.

L. Receive all objections to creation of paving districts and other street improvements.

M. Destroy city records under the direction of the State Records Board, pursuant to Neb. Rev. Stat. §84-1201 through §84-1220; provided, the City Council shall not have the authority to destroy the minutes of the clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board.

N. Permit no records, public papers, or other documents kept and preserved in the office to be taken therefrom except by such officers of the City as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times. The city clerk may charge a reasonable fee for certified copies of any record in the office as set by resolution of the City Council. (Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712) (Am. by Ord. No. 1316, 2/17/93)

SECTION 1-306: CITY TREASURER

The city treasurer shall:

- A. Be the custodian of all moneys belonging to the City.
- B. Keep all money belonging to the City separate and distinct from his/her own money.
- C. Keep a separate account of each fund or appropriation and the debits and credits belonging thereto.
- D. Issue duplicate receipts for all moneys received for the City.
- E. Give every person paying money into the city treasury a receipt therefor, specifying the date of payment and the account paid; the second copy of the said receipt shall be kept on file in the office.
- F. Open the books and accounts for inspection by any citizen whenever any city fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved.
- G. Cancel all bonds, coupons, warrants, and other evidences of debt against the City whenever paid by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon.
- H. Collect all special taxes.
- I. Allocate special assessments to the several owners.
- J. Obtain from the county treasurer a monthly report as to the collection of delinquent taxes.
- K. Foot and balance the cash book daily and adopt such bookkeeping methods as the City Council shall prescribe.
- L. Invest and collect all money owned by or owed to the City as directed by the City Council.
(Neb. Rev. Stat. §17-606 through 17-609, 84-712)

SECTION 1-307: TREASURER'S MONTHLY REPORT

- A. The city treasurer shall, at the end of each and every month and such other times as the City Council may deem necessary:
 - 1. Render an account to the Council under oath showing the financial state of the City at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the treasury;

2. Accompany the said account with a statement of all receipts and disbursements, together with all warrants redeemed and paid;
3. Produce depository evidence that all city money is in a solvent and going bank in the name of the City.

B. If the city treasurer shall neglect or fail for the space of ten days from the end of each and every month to render the accounts as aforesaid, the City Council shall by resolution declare the office vacant and appoint another person to fill the vacancy. The city treasurer shall be present at each regular meeting of the City Council to read and file the monthly report.
(Neb. Rev. Stat. §17-606)

SECTION 1-308: TREASURER'S ANNUAL REPORT

The city treasurer shall publish in a legal newspaper having general circulation within the City within 60 days following the first day of August of each year a detailed report of the activities of the office. Said report shall include all receipts and expenditures by funds of the City. (Neb. Rev. Stat. §19-1101)

SECTION 1-309: CITY ATTORNEY

The city attorney is the city's legal advisor. The City Council shall have the right to compensate for legal services on such terms as the Council and the city attorney may agree and to employ any additional legal assistance as may be necessary out of the funds of the City. The city attorney shall:

- A. Commence, prosecute, and defend all suits on behalf of the City.
- B. Attend City Council meetings when requested and advise any city official in any matter of law in which the interests of the City may be involved.
- C. Draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the City.
- D. Examine all bonds, contracts, and documents on which the City Council will be required to act and attach a brief statement in writing to every such instrument and document as to whether or not it is in legal and proper form.
- E. Prepare complaints and attend and prosecute violations of the City ordinances when directed to do so by the City Council and without direction appear and prosecute all cases for violation of the city ordinances that have been appealed to and are pending in any higher court.
- F. Examine the ordinance records when requested to do so by the City Council, and advise and assist the city clerk as much as may be necessary to the end that

each procedural step will be taken in the passage of each ordinance to insure that they will be valid and do not conflict with subsisting local laws insofar as their passage and approval are concerned.

(Neb. Rev. Stat. §17-610)

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/she shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the City. He/she shall disinfect or fumigate the premises or persons in or about the premises when the same are quarantined. He/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/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: POLICE DEPARTMENT; CONTRACT WITH COUNTY SHERIFF'S OFFICE

A. 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 of Ainsworth. A minimum of one copy of such contract shall be on file at the office of the city clerk and available for public inspection during office hours.

B. 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. (Neb. Rev. Stat. §17-107, 17-121)

SECTION 1-312: CITY POLICE OFFICER

A. City police officers, whether regular or special, shall:

1. Be conversant with and knowledgeable of city and state laws
2. Have the duty to file such complaints and reports as may be required by city ordinances and state laws.
3. Have the power to arrest all offenders against the laws of the State or the City, by day or by night, and keep the said offenders in the city jail or some other place to prevent their escape until trial can be held before the proper state or city official.
4. Have full power and authority to call on any person whenever necessary to assist them in performing public duties. Failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine.
5. In making a lawful arrest, search all persons in the presence of some other person, whenever possible, and carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. Any city police officer who shall willfully fail, neglect, or refuse to make an arrest or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor and upon conviction shall be fined.

B. No law enforcement official shall have any interest in any establishment having a liquor license.

C. It shall be unlawful for the City Council to retain any city police officer in that position after he/she shall have been duly convicted of the willful violation of any law of the United States of America, the State of Nebraska, or any ordinance, except minor traffic violations.

D. Suitable uniforms and badges shall be furnished to the city police by the City. Any member who shall lose or destroy the same shall be required to pay the replacement costs and in the event that any member shall leave the force, his/her badge shall be immediately delivered to the police chief. The City Council may from time to time provide the city police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (Neb. Rev. Stat. §17-118, 17-124)

SECTION 1-313: POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY

A. No police officer, including the chief of police, shall be disciplined, suspended, demoted, removed, or discharged except upon written notice stating the reasons for such disciplinary action, suspension, demotion, removal, or discharge. Such notice shall also contain a statement informing the police officer of the right to a hearing before the City Council.

B. Any police officer so disciplined, suspended, demoted, removed, or discharged may, within ten days after being notified by of such disciplinary action, suspension, demotion, removal, or discharge, file with the city clerk a written demand for a hearing before the City Council. The Council shall set the matter for hearing not less than ten nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than seven nor more than 14 days prior to the hearing.

C. At the hearing, the police officer shall have the right (1) to respond in person to the charges and to present witnesses and documentary evidence; (2) to confront and cross-examine available adverse witnesses; and (3) to be represented by counsel.

D. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the disciplinary action, suspension, demotion, removal, or discharge. The failure of the City Council to act within 30 days or the failure of a majority of the council members to vote to reverse or modify the disciplinary action, suspension, demotion, removal, or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal, or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal, or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

E. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(Neb. Rev. Stat. §17-107) (Ord. No. 1374, 5/18/96)

SECTION 1-314: POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION

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

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

1. Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;
2. Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;
3. Any city law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A "law enforcement officer in need of assistance" shall mean a law enforcement officer whose life is in danger or a law enforcement officer who needs assistance in making an arrest and the suspect (a) will not be apprehended unless immediately arrested, (b) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (c) may destroy or conceal evidence of the commission of a crime; and

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

D. If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the City in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the

laws or performing the functions within the territorial limits of their primary jurisdiction. The City shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement of its personnel outside the limits of the City pursuant to this subsection.

(Neb. Rev. Stat. §29-215, 81-829.65) (Ord. No. 1427, 11/10/98)

SECTION 1-315: 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/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. §17-405, 17-568, 17-568.01, 17-919) (Am. by Ord. No. 1144, 10/5/83)

SECTION 1-316: WATER/SEWER SUPERINTENDENT POSITION CREATED

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.

SECTION 1-317: PUBLIC WORKS COMMISSIONER; WATER AND SEWER COMMISSIONER; BOND; DUTIES

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 sys-

tems, 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) commissioner shall:

A. 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.

B. 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/she may believe are needed, along with estimates of the costs thereof.

C. Issue permits for all connections to the city sewer and water systems and inspect and supervise all repairs made to said systems.

D. Perform such other duties as the City Council may designate.
(Neb. Rev. Stat. §17-107; 17-541)

SECTION 1-318: CITY 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/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 im-

provements, 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 1-319: CITY 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/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/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 1-320: CITY 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/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 1-321: CITY 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/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 1-322: CITY BUILDING INSPECTOR

The city building inspector, subject to the orders and directives of the mayor and City Council, shall:

A. Have the general charge of building inspection;

B. Administer the building permits system under the zoning and subdivision ordinances, including inspecting construction, surveying for unauthorized construction or demolition, and the necessary keeping of records and reports; and

C. Perform such other duties as the City Council may require.
(Ord. No. 1044, 10/3/79)

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. by Ord. No. 1143, 10/5/83)

SECTION 1-402: PUBLIC BODY DEFINED

A. “Public body” as used in this article shall mean:

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

B. This article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(Neb. Rev. Stat. §84-1409(1)) (Am. by Ord. Nos. 1143, 10/5/83; 1318, 2/10/93)

SECTION 1-403: OPEN MEETINGS INFORMATION; RIGHTS OF PUBLIC

A. The City Council shall make available at least one current copy of the Open Meetings Act, to 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. The Council shall also 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.

B. Subject to the provisions of this article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-405, 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 subsection (B) 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 City 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.

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

SECTION 1-404: PUBLIC PLACE; NOTICE, AGENDA

A. All public meetings as defined by law shall be held in a city public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. 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 public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

B. The advance publicized notice of all public convened meetings shall be transmitted to all members of the City Council and to the public by a method designated by the City Council or by the mayor if the City Council has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the city clerk. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits. The City Council shall have the right to modify the agenda to include items of an emergency nature only.

(Neb. Rev. Stat. §84-1408, 84-1411, 84-1412) (Am. by Ord. Nos. 1143, 10/5/83; 1217, 9/2/87)

SECTION 1-405: 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. 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, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

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 mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy.

D. Any 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 the protection of the public interest or the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the Council. 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. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this 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. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of council members at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the Council has supervision, control, jurisdiction, or advisory power.

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

SECTION 1-406: 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 1-407 (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. by Ord. No. 1143, 10/5/83)

SECTION 1-407: 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 at that meeting. (Neb. Rev. Stat. §84-1411)

SECTION 1-408: CHANGE IN OFFICE

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held. The outgoing officers and the outgoing members of the Council shall present their reports, and after the old Council has completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members. The outgoing officers shall thereupon each surrender to the successor in office all property, records, papers and moneys belonging to the same. (Neb. Rev. Stat. §17-107.02(9))

SECTION 1-409: ORGANIZATIONAL MEETING; STANDING COMMITTEES

A. The newly elected Council members shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The mayor elected for the new city year 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 one of its own 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. It is hereby made the duty of each member of the Council or successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska and the laws of the City and to perform faithfully and impartially the duties of office, said oath to be filed in the office of the city clerk. Each officer who is required to give a

bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of office, with the oath endorsed thereon. Also see Section 1-205.

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

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.

SECTION 1-410: REGULAR MEETINGS

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 7:00 P. M. A majority of the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business. (Neb. Rev. Stat. §17-105) (Am. by Ord. Nos. 1095, 1/6/82; 1187, 11/6/85; 1253, 7/7/89; 1284, 1/14/91; 1371, 5/8/96)

SECTION 1-411: SPECIAL MEETINGS

Special meetings may be called by the mayor or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the city clerk. On filing the call for a special meeting, the city clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be out of the state or physically unable to be present. A majority of the members of the Council shall constitute a quorum for the transaction of business but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend. (Neb. Rev. Stat. §17-106) (Ord. No. 1187, 11/6/85)

SECTION 1-412: ORDER OF BUSINESS

All meetings of the City Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Council, the city clerk, the mayor, 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:

1. Roll call
2. 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).
3. Reports of department heads
4. Treasurer's report
5. Claims
6. Communications
7. Unfinished business
8. New business
9. Miscellaneous business
10. Announcements
11. Adjournment

SECTION 1-413: 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 Council meeting at which he/she wishes to appear.

C. Any person may direct a written communication to the City Council on any matter concerning the City's business by directing the communication to the City 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 per-

son addressing the Council shall step up to the council table, give his/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 1-414: PARLIAMENTARY PROCEDURE; ROBERT'S RULES OF ORDER

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. by Ord. No. 1031, 4/4/79)

SECTION 1-415: PARLIAMENTARY PROCEDURE; RULES OF DEBATE

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/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/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/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 side 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/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 Council.

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

SECTION 1-416: 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 sergeant at arms, at the direction of the presiding officer, shall remove any person violating the provisions of this section. The chief of police or such member of the Police Department as he/she may designate 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.

SECTION 1-417: MINUTES

A. The minutes of the city clerk 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 the Council shall be a public record open to inspection by the public upon request at the office of the city clerk during office hours. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Council in open session. The record of the city clerk shall show how each member voted or that the member was absent and did not vote. The vote to elect leadership within a public body may be taken by secret ballot but the total number of votes for each candidate shall be

recorded in the minutes.

B. Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that the City may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. (Neb. Rev. Stat. §84-1412, 84-1413)

SECTION 1-418: VOTES

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session and the record shall state how each member voted or if the member was absent or not voting. Any member shall have the right to have the reasons for dissent from or protest against any council action entered on the record. The vote to elect leadership within a public body may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §17-616, 84-1413)

SECTION 1-419: VIDEOCONFERENCING, WHEN ALLOWED

A. A meeting of an organization created under the Interlocal Cooperation Act or the City Cooperative Financing Act or the governing body of a risk management pool or advisory committee organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

1. Reasonable advance publicized notice is given;
2. Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;
3. At least one copy of all documents being considered is available to the public at each site of the videoconference;
4. At least one member of the governing body or advisory committee is present at each site of the videoconference; and
5. No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.
6. Videoconferencing shall not be used to circumvent any of the public government purposes established in this article.

B. For purposes of this section, "videoconferencing" shall mean conducting a

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

(Neb. Rev. Stat. §84-1409, 84-1411) (Ord. No. 1395, 9/10/97)

Article 5 – Ordinances, Resolutions, and Motions

SECTION 1-501: GRANT OF POWER

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be expedient for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories. (Neb. Rev. Stat. §17-505) (Am. by 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: STYLE

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

SECTION 1-504: TITLE

No ordinance shall contain a subject not clearly expressed in its title. (Neb. Rev. Stat. §17-614)

SECTION 1-505: INTRODUCTION

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

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

B. With the recognition of the mayor, a member may present the proposed ordinance to the clerk who, in the presence and hearing of a majority of the members elected to the City Council, shall read aloud the substance of the ordinance and file it for future consideration.

(Am. by Ord. No. 1396, 9/10/97)

SECTION 1-506: PASSAGE

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City 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 ordinance shall be read by title and then moved for final passage. Three-fourths of the City Council may require a reading of any ordinance in full before enactment under either procedure set

out in this section. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members of the City Council. On the passage or adoption of every by-law or ordinance and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any by-law, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members of the City Council shall be required. All appointments of the officers of the Council shall be made viva voce and the concurrence of a like majority shall be required; their names and those for whom they voted on the vote resulting in an appointment shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the Council to be readily seen by the public. (Neb. Rev. Stat. §17-614, 17-616) (Am. by Ord. No. 1396, 9/10/97)

SECTION 1-507: PUBLICATION OR POSTING

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

A. In some newspaper published in the City, or

B. If no paper is published in the City, then by posting a written or printed copy in each of three public places in the City; or

C. In book or pamphlet form.

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

SECTION 1-508: CERTIFICATE OF PUBLICATION OR POSTING

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the City from the city clerk showing that the said ordinance was passed and approved and when and in what paper the same was published or when, by whom and where the same was posted. (Neb. Rev. Stat. §17-613)

SECTION 1-509: EMERGENCY ORDINANCES; EFFECTIVE DATE

A. Except as provided in subsection (B) of this section, an ordinance for the government of the City which has been adopted by the City Council without submission to the voters shall not go into effect until 15 days after the passage of the ordinance.

B. In the case of riot, infectious or contagious diseases or other pending danger, failure of a public utility or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City

Council, and be entered of record on the city clerk's minutes.
(Neb. Rev. Stat. §17-613, 19-3701) (Am. by Ord. No. 1396, 9/10/97)

SECTION 1-510: AMENDMENTS AND REVISIONS

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the City and modifications to zoning or building districts may be adopted as otherwise provided by law. (Neb. Rev. Stat. §17-614) (Am. by Ord. No. 1396, 9/10/97)

Article 6 – Elections

SECTION 1-601: GENERALLY

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 secretary of state, 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 secretary of state shall prescribe the forms to be used for certification to him or her and 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 1-602: 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. by Ord. No. 1096, 1/6/82)

SECTION 1-603: SPECIAL, JOINT

A. 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. No special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide primary election, and no special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

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.

C. After the election commissioner or county clerk has received the certification of the issue to be submitted, he/she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the city clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots, issue absentee ballots and conduct the submission of the issue, including the receiving and counting of the ballots on the issue.

D. The election returns shall be made to the election commissioner or county clerk. The ballots, including absentee 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. (Neb. Rev. Stat. §32-559) (Am. by Ord. Nos. 1166, 11/7/84; 1399, 10/8/97)

SECTION 1-604: SPECIAL ELECTION NOTICE

No less than five days nor more than ten days prior to any special city election, the city clerk shall prepare and cause to be published once in a newspaper that is in or of general circulation in the City a notice containing the proclamation concerning the said special election. If no newspaper is published in or is of general circulation in the City, then such notice shall be posted in each of three public places in the City. The notice shall be in the form prescribed by state law. (Neb. Rev. Stat. §19-3006)

SECTION 1-605: FILING FEE

A. For candidates for any city office, a filing fee shall be paid by or on behalf of each candidate prior to filing for office. The filing fee shall be paid to the city treasurer and shall be placed in the general fund of the City. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the city treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

B. For city officers, the filing fee shall be a sum equal to one percent of the annual salary such candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate. No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500.00 per year.

C. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any

undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within ten days after the canvass of votes by the County Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to issuance of the certificate.

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

SECTION 1-606: BALLOTS; NOMINATIONS WITHOUT OPPOSITION

If the names of candidates properly filed for nomination at the primary election for the City Council 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 Neb. Rev. Stat. §32-814. (Neb. Rev. Stat. §32-811)

SECTION 1-607: 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. 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. 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)

SECTION 1-608: PETITION CANDIDATES; PROCEDURE

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 this section and Neb. Rev. Stat. §32-621 or by nomination by political party convention or committee.

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 but only if a vacancy exists on the ballot under Neb. Rev. Stat. §32-626(1) and the candidate files for the office by petition as prescribed in this section.

C. The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the City.

D. The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the City, not to exceed 2,000.

E. Petitions for nomination 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. 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 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 payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election.

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

SECTION 1-609: 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 to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525)

SECTION 1-610: RECOUNTS

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 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. If any member of the said 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 recount-

ing 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.

E. The procedures for the recounting of ballots shall be the same as those used for the counting of ballots on election day. The recount shall be conducted at the county courthouse, except that if vote counting devices are used for the counting or recounting, such counting or recounting may be accomplished at the site of the devices. Counties counting ballots by using a vote counting device shall first recount the ballots by use of the device. If substantial changes are found, the ballots shall then be counted using such device in any precinct which might reflect a substantial change.

(Neb. Rev. Stat. §32-1119)

SECTION 1-611: CERTIFICATE OF NOMINATION OR ELECTION

The county clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each city office. A certificate of election prepared by the city clerk shall be in the form as nearly as possible prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City and countersigned by the city clerk. (Neb. Rev. Stat. §19-3041, 32-558, 32-1033)

SECTION 1-612: INABILITY TO ASSUME OFFICE

In any general election where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he/she was a candidate and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be declared elected and shall be entitled to the certificate of election; provided, any candidate so declared elected received not less than 35% of the total number of votes cast for such office in the election. If any of the qualifications of this section are not met by the candidate to be declared elected or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law. (Neb. Rev. Stat. §32-537(7) & (8))

SECTION 1-613: RECALL PROCEDURE

A. 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.

B. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk and each petition paper shall conform to the requirements of Neb. Rev. Stat. §32-1304. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the city clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The city clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

D. Petition signers shall conform to the requirements of the Election Act. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

E. A petition demanding that the question of removing an elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election. Except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for that office in the last general election.

F. The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after the city clerk issues the initial petition papers to the principal circulator or circulators. Within 15 days after the filing of the petition, the city clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the city clerk receives an affidavit signed by the per-

son requesting his or her signature be removed before the petitions are filed with the city clerk for signature verification. If the petition is found to be sufficient, the city clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the city clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

G. If the recall petition is found to be sufficient, the city clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the City Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period. If any other election is to be held in the City within 90 days of the expiration of the five-day period, the City Council shall provide for the holding of the removal election on the same day. After the City Council sets the date for the recall election, it shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

H. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of the term but may be subject to further recall attempts as provided in subsection (J) of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office, which shall be filled as otherwise provided in this code and state law. If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the secretary of state, election commissioner, or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the city clerk that he or she does not want a recount. If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the secretary of state, election commissioner, or county clerk.

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

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

(Neb. Rev. Stat. §32-1301 through 32-1309) (Ord. No. 1432, 7/14/99)

Article 7 – Initiative and Referendum

SECTION 1-701: DEFINITIONS

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

“Circulator” shall mean any person who solicits signatures for an initiative or referendum petition.

“Clerk” shall mean the city clerk or the city official in charge of elections.

“City” shall mean the City of Ainsworth.

“City Council” shall mean the legislative authority of the City.

“Measure” shall mean an ordinance, charter provision, or resolution which is within the legislative authority of the City Council to pass and which is not excluded from the operation of referendum by the exceptions in Section 1-713.

“Petition” shall mean a document authorized for circulation or any copy of such document.

“Place of residence” shall mean the street and number of the residence. If there is no street and number for the residence, “place of residence” shall mean the mailing address.

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

“Qualified electors” shall mean all persons registered to vote at the time the prospective petition is filed in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative or altered or repealed by referendum.

“Residence” shall mean that place at which a person has established his/her home, where he/she is habitually present and to which, when departing, intends to return.

“Signature sheet” shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

(Neb. Rev. Stat. §18-2501 through 18-2511)

SECTION 1-702: PETITIONS; BALLOTS

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

B. The ballot title of any measure to be initiated or referred shall consist of (1) a briefly-worded caption by which the measure is commonly known or which accurately summarizes the measure; (2) a briefly-worded question which plainly states the purpose of the measure, phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and (3) a concise and impartial statement of the chief purpose of the measure consisting of not more than 75 words.

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

(Neb. Rev. Stat. §18-2512, 18-2513)

SECTION 1-703: PETITION FORMS

A. The forms designed by the secretary of state to be used for initiative and referendum petitions shall be made available to the public by the city clerk and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the clerk. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted. (Neb. Rev. Stat. §18-2514)

B. Each petition presented for signature must be identical to the petition au-

thorized for circulation by the city clerk. Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the City who are potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and the statement specified to be part of the ballot title. When a special election is being requested, such fact shall be stated on every petition. (Neb. Rev. Stat. §18-2515)

SECTION 1-704: DECLARATORY JUDGMENT

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

B. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum or whether a measure may be enacted by initiative may be filed in the District Court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until 40 days from the date the City Council received notification from the verifying official that the necessary signatures had been obtained. If the City does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum or whether the measure may be enacted by initiative until after it has received such notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this article. If the City does file such an action prior to receiving such notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action.

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

D. The provisions of this section relating to declaratory judgments shall not be construed as limiting but shall be construed as supplemental and additional to other rights and remedies conferred by law.
(Neb. Rev. Stat. §18-2538)

SECTION 1-705: SIGNATURE SHEETS

A. Every signature sheet shall (1) contain the caption required in this article;(2) be part of a complete and authorized petition when presented to potential signatories; (3) provide space for signatories to write their names, residential addresses, and the date of signing; and (4) contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

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

(Neb. Rev. Stat. §18-2516)

SECTION 1-706: PETITIONS; AFFIDAVIT

Included in the contents of every petition shall be an affidavit to be signed by the circulator in the presence of a notary, which states that:

A. The circulator is a qualified elector;

B. Each person who signed the petition did so in the presence of the circulator on the date indicated;

C. The circulator believes that each signatory was registered to vote in the affected jurisdiction at the time he/she signed the petition;

D. The circulator believes that each signatory has stated his or her name and place of residence correctly.

(Neb. Rev. Stat. §18-2517)

SECTION 1-707: PETITIONS; NOTIFICATION

A. Signed petitions shall be filed with the clerk for signature verification. Upon the filing of a petition and passage of a resolution by the City Council, the city and county clerks or county election commissioner may by mutual agreement provide that the county clerk or county election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The City shall reimburse the County for any costs incurred. When the verifying official has determined that 100% of the necessary signatures required by this article have been obtained, he/she shall notify the City Council of that fact and shall immediately forward a copy of the petition to the Council.

B. In order for an initiative or referendum proposal to be submitted to the City Council and the voters, the necessary signatures shall be on file with the clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void. (Neb. Rev. Stat. §18-2518)

SECTION 1-708: FREQUENCY OF OCCURRENCE

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

SECTION 1-709: DIRECT VOTE

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

SECTION 1-710: ELECTIONS

A. The clerk shall call elections under this article either at a special election or at the regularly scheduled primary or general election. He/she shall cause notice of every such election to be (1) printed in one or more newspapers of general circulation in the City at least once not less than 30 days prior to such election and (2) posted in the office of the clerk and in at least three conspicuous places in the City at least 30 days prior to such election. The said notice shall be substantially as follows:

“Notice is hereby given that on Tuesday, the ____ day of _____, 20____, at (identify polling place or precinct) of the City of Ainsworth, Nebraska, an election will be held at which there will be submitted to the electors of the City for their approval or rejection the following measures, propositions, or issues: (naming measures, propositions, or issues), which election will be open at 8:00 A.M. and will continue open until 8:00 P.M. of the same day.

Dated this day of _____, 20_____.

Clerk of the City of Ainsworth, Nebraska”

B. The clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

(Neb. Rev. Stat. §18-2521)

SECTION 1-711: BALLOTS

All ballots for use in special elections under this article shall be prepared by the clerk and furnished by the City Council unless the Council contracts with the County for such service. Such ballots shall be in form the same as provided by law for election of the mayor and City Council. When ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in this article. (Neb. Rev. Stat. §18-2522)

SECTION 1-712: INITIATIVE

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

B. An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure would be to repeal or alter an existing law or portion thereof which is not subject to referendum or subject only to limited referendum pursuant to Section 1-713.

C. Whenever an initiative petition bearing signatures equal in number to at least 15% of the qualified electors of the City has been filed with the clerk and verified, it shall be the duty of the City Council to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the Council fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the City. If the Council desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the City, the Council shall, by resolution, direct the clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

D. Whenever an initiative petition which bears signatures equal in number to at least 20% of the qualified electors and which requests that a special election be called to submit the initiative measure to a vote of the people has been filed with the

clerk and verified, it shall be the duty of the City Council to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the City Council fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. The date of such election shall not be less than 30 nor more than 60 days from the date the City Council received notification pursuant to Section 1-707.

E. If a majority of voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the City 30 days after certification of the election results, unless the City Council by resolution orders an earlier effective date or the measure itself provides for a later effective date. Such resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the City Council. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

(Neb. Rev. Stat. §18-2523 through 18-2526)

SECTION 1-713: REFERENDUM LIMITATIONS

A. The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of the City. (Neb. Rev. Stat. §18-2527)

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

1. Measures necessary to carry out contractual obligations including but not limited to those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was or is subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;
2. Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;
3. Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;
4. Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the City Council and approved by the mayor;
5. Measures relating to projects for which notice has been given as pro-

vided for in subsection (E) of this section for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

6. Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in Neb. Rev. Stat. §18-2524 and §18-2529.;
7. Resolutions ordering an earlier effective date for measures enacted by initiative as provided in Neb. Rev. Stat. §18-2526;
8. Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by the City and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;
9. Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in Neb. Rev. Stat. §19-905;
10. Measures relating to personnel issues, including but not limited to establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and
11. Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

C. The following measures shall be subject to limited referendum:

1. Measures in furtherance of a policy of the City or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;
2. Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects;
3. Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and

pay rates and salaries for city employees other than the members of the City Council and the mayor; and

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

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

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

1. By holding a public hearing on the project, the time and place of such hearing being published in a newspaper of general circulation within the City at least once not less than five days prior to the date set for hearing;
2. By passage of a measure approving the project, including an override of a veto, if necessary, at a meeting held on any date subsequent to the date of hearing; and
3. After passage of such measure, including an override of a veto, if necessary, by giving notice as follows:
 - a. For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of refer-

endum; and

- b. For projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by this subdivision shall be published in at least one newspaper of general circulation within the City and shall be published not later than 15 days after passage by the City Council, including an override of a veto, if necessary, of a measure approving the project.

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

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

H. All measures, except as provided in subsections (B), (C), (E) and (F) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the City Council, including an override of a veto, if necessary, or enacted by the voters by initiative.

(Neb. Rev. Stat. §18-2528)

SECTION 1-714: REFERENDUM; PASSAGE

A. Whenever a referendum petition bearing signatures equal in number to at least 15% of the qualified electors of the City has been filed with the clerk and verified pursuant to Section 1-707, it shall be the duty of the City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the City Council fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the City Council receives notification pursuant to Section 1-707, the clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the City. If the City Council desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the City, the Council shall, by resolution, direct the clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited refer-

endum.

B. Whenever a referendum petition which bears signatures equal in number to at least 20% of the qualified voters of the City and which requests that a special election be called to submit the referendum measure to a vote of the people has been filed with the clerk and verified, it shall be the duty of the City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the City Council fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, the clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within 30 days from the date the City Council received notification. The date of such special election shall not be less than 30 nor more than 60 days from the date the City Council received notification.

C. If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the City Council. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

(Neb. Rev. Stat. §18-2529 through 18-2531)

SECTION 1-715: VIOLATIONS, PENALTIES

A. Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Neb. Rev. Stat. §18-2501 through §18-2531 shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

B. Whoever (1) falsely makes or willfully destroys a petition or any part thereof; (2) signs a false name thereto; (3) signs or files any petition knowing the same or any part thereof to be falsely made; or (4) suppresses any petition or any part thereof which has been duly filed pursuant to Neb. Rev. Stat. §18-2501 through §18-2531 shall be guilty of a Class I misdemeanor with a limit of \$500.00 on the fine.

C. Whoever (1) signs any petition under Neb. Rev. Stat. §18-2501 through §18-2531 knowing that he/she is not a registered voter in the place where such petition is made; (2) aids or abets any other person in doing any of the acts mentioned in this section; (3) bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him/her to sign such petition; or (4) engages in any deceptive practice intended to induce any person to sign a petition shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

D. Any clerk who willfully refuses to comply with the provisions of Neb. Rev. Stat. §18-2501 through §18-2531 or who willfully causes unreasonable delay in the

execution of duties under such sections shall be guilty of a Class I misdemeanor but imprisonment shall not be included as part of the punishment.

(Neb. Rev. Stat. §18-2532 through 18-2535)

SECTION 1-716: APPLICABILITY

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

B. Nothing in this article shall apply to procedures for initiatives or referendums provided in Neb. Rev. Stat. §18-412 and §18-412.02 relating to city light and power plants; §70-504, §70-650.01 and §70-650.02 relating to public power districts; and §80-203 to §80-205 relating to soldiers' and sailors' monuments.

(Neb. Rev. Stat. §18-2536, 18-2537)

Article 8 – Fiscal Management

SECTION 1-801: 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 City Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. by Ord. No. 1372, 5/8/96)

SECTION 1-802: 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 1-803: DEPOSIT OF FUNDS

A. The City Council, at its first meeting in each fiscal year, shall designate one or more banks or capital stock financial institutions of approved and responsible standing in which the city treasurer shall keep at all times, subject to payment on demand, all money held as city treasurer. If there are one or more banks or capital stock financial institutions located in the City which apply for the privilege of keeping such money and give bond or give security for the repayment of deposits as provided in this section, such banks or capital stock financial institutions shall be selected as such depositories. The city treasurer shall not give a preference to any one or more of them in the money he or she may so deposit.

B. The City Council shall require from all banks or capital stock 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 (FDIC) or in lieu thereof (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The city treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. 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 or capital stock financial institutions through the FDIC shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation. For deposits so insured, no other surety bond or other security shall be required. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions.

D. The city treasurer may deposit the funds received and held by him/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, 21-1316.01, 77-2362 through 77-2364, 77-2386 through 77-2397) (Am. by Ord. No. 1418, 7/8/98)

SECTION 1-804: INVESTMENT OF FUNDS

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 certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Neb. Rev. Stat. §17-608, 17-609, 21-1316.01, 77-2341) (Am. by Ord. No. 1259, 11/13/89)

SECTION 1-805: CLAIMS

All claims against the City shall be presented to the City Council in writing with a full account of the items and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the 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 exists obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §17-714, 17-715)

SECTION 1-806: 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 1-807: 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. No expenditure for any improvement to be paid for out of the General Fund of the City shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

SECTION 1-808: GENERAL FUND

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

SECTION 1-809: SINKING FUNDS

A. The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the City for a term not to exceed that prescribed by state law, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law.

B. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

C. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City.

D. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law.

E. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is author-

ized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund.
(Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-810: SPECIAL ASSESSMENT FUND

All money received on special tax assessments 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 1-811: 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.

B. No debt owed pursuant to subsection (A) of this section 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.

C. 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.

D. 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 1-812: BOND ISSUES

The City 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 City 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. §10-201 through 10-411, 10-601 through 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-826)

SECTION 1-813: 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 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 City Council. In advertising for bids as provided in subsections (C) and (E) of this section, the City 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:

1. For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or
2. For the purchase of equipment used in the construction of such enlargement or general improvements.

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

1. \$30,000.00 or less;
2. \$60,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1 million;
3. \$90,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5 million; or
4. \$120,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10 million.

E. The advertisement provided for in subsection (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. 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. §16-405 when adopted by a three-fourths vote of the City Council and entered of record.

F. 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 contain a price which exceeds the estimated cost, the mayor and Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

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

H. Any city bidding procedure may be waived by the City Council (1) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §81-145 to §81-162 or (2) when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

I. 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. §16-321, 16-321.01, 17-568.01, 18-1756) (Am. by Ord. Nos. 1124, 11/3/82; 1142, 10/5/83; 1417, 7/8/98)

SECTION 1-814: ANNUAL AUDIT; FINANCIAL STATEMENTS

A. The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of such audits shall appear separately in the annual audit report. Such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

B. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City, as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the city clerk and shall become a part of the public records of the city clerk's office, being open for public inspection at all times thereafter. One copy shall be filed with the auditor of public accounts. Every city council that is required herein to submit to an audit of its accounts shall provide and file with the city clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (Neb. Rev. Stat. §19-2901 through 19-2909, 23-934) (Am. by Ord. No. 1175, 11/7/84)

SECTION 1-815: BUDGET MANUAL; INCORPORATED BY REFERENCE

The Manual of Instructions for City/Village: Budgets, prepared by the state auditor of public accounts, is incorporated by reference for the purpose of proper budget preparation.

SECTION 1-816: 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. (Neb. Rev. Stat. §17-706) (Am. by Ord. Nos. 1344, 5/18/94; 1372, 5/8/96)

SECTION 1-817: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

A. On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council 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 the 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 1-818: PROPOSED BUDGET STATEMENT; CONTENTS; FILING

A. The City Council shall prepare in writing and file with the city clerk no later than August 1 each year on forms prescribed and furnished by the auditor of public accounts a proposed budget statement containing the following information, except as provided by state law:

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

amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items.

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 for the purpose of paying the principal or interest (a) on bonds issued by the City Council and (b) for all other purposes;
5. A uniform summary of the proposed budget statement, which shall include a separate total for each fund including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the City Proprietary Function Act, and a grand total of all funds maintained by the City Council; and
6. A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the City Proprietary Function Act.

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

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

(Neb. Rev. Stat. §13-504, 13-505) (Am. by Ord. Nos. 1167, 11/7/84; 1342, 5/18/94; 1400, 10/8/97; 1420, 8/12/98)

SECTION 1-819: PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION

A. After the filing of the proposed budget statement with the city clerk, the City Council shall each year conduct a public hearing on the proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the

hearing in a newspaper of general circulation within the City or by direct mailing of the notice to each resident within the City.

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

1. The amount to be applied to the payment of principal or interest on bonds issued by the City Council and
2. The amount to be received for all other purposes.

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

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

(Neb. Rev. Stat. §13-506, 13-507) (Am. by Ord. No. 1420, 8/12/98)

SECTION 1-820: ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the auditor of public accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately:

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.

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

the proposed budget statement.

C. The City 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. by Ord. Nos. 1343, 5/18/94; 1372, 5/8/96; 1400, 10/8/97; 1420, 8/12/98)

SECTION 1-821: REVISION OF BUDGET

A. Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the 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 Neb. Rev. Stat. §13-518 to 13-522; or
3. The City Council has been notified by the auditor of public accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

B. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City. 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 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 of public accounts a copy of the revised budget as adopted. The City 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 days after the adoption of the budget under Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the auditor of public accounts, the City 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% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the county clerk and with the auditor of public accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

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

SECTION 1-822: EMERGENCY; TRANSFER OF FUNDS

Whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the City Council may by a majority vote, 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 1-821. (Neb. Rev. Stat. §13-510)

SECTION 1-823: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENT; FILING; HEARING; ADOPTION; RECONCILIATION

A. Pursuant to the City Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its city 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 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 immediate two prior fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
2. For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
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.

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

E. 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 City Council's jurisdiction.

F. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended and a written record 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 City Council's jurisdiction.

G. 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 City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

H. 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 city budget statement created pursuant to the Nebraska Budget Act.

(Neb. Rev. Stat. §18-2803 to 18-2808) (Ord. No. 1341, 5/18/94)

SECTION 1-824: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

A. After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with the levying board on or before October 14 of each year and file with the auditor of public accounts a certified copy of any resolution passed setting a tax levy which shall not exceed the maximum levy prescribed by state law and a statement reconciling the levy set by the Council with the adopted budget statement filed as otherwise required by law. The levy shall be set to fund property tax requirements in the adopted budget to four to eight places to the right of the decimal point. The City Council shall use the final adjusted 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 City Council may designate one of its members to perform any duty or responsibility required of such body by this subsection.

B. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the City at least five days prior to the hearing. The hearing notice shall contain the following information: (1) The dollar amount of the prior year's tax request and the

property tax rate that was necessary to fund that tax request; (2) the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and (3) the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request. Any resolution setting a tax request under this subsection shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply. Any tax levy which is not in compliance with this subsection and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606. (Neb. Rev. Stat. §13-508, 77-1601.02) (Ord. No. 1401, 10/8/97) (Am. by Ord. No. 1420, 8/12/98)

SECTION 1-825: 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. 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. by Ord. No. 1420, 8/12/98)

SECTION 1-826: PROPERTY TAX LEVY; INADEQUATE VALUATION

If the valuation of the City has been reduced so that the maximum levy permitted by this article is inadequate to produce the necessary revenue, said maximum levy may be exceeded upon presentation to the City Council of petitions signed by a majority of the registered voters of the City requesting such action and specifying the extent to, and the period of time, not to exceed five years, in which such maximum may be exceeded. No signature may be withdrawn after the petitions have been filed with the City Council. The Council shall cause such petitions, accompanied by the certificate of the county clerk that he/she has examined the petitions and that they have been signed by a majority of the registered voters of the City, to be filed with the County Board. After such filing, the City Council may exceed the maximum mill levy to the extent and for the period of time specified in the petitions. (Neb. Rev. Stat. §19-1309)

SECTION 1-827: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

A. Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this subsection except as provided in subsection (C) of this section. The City may levy a maximum levy of 45¢ per \$100.00 of taxable valuation of property subject to the levy plus an additional 5¢ per \$100.00 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Inter-local Cooperation Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statue, memorial, or monu-

ment pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the City which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this subsection. The limitations on tax levies provided in this subsection are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this subsection are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. Rev. Stat. §77-1606 unless approved under subsection (C) of this section.

B. All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-street Parking District Act may be allocated property taxes as authorized by law which are authorized by the City and are counted in the City's levy limit provided by subsection (A) of this section, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the City may be exceeded as provided in subsection (C) of this section. On or before August 1, all political subdivisions subject to city levy authority under this subsection shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's City Council. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection. The City Council shall:

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and
2. Forward a copy of such resolution to the chairman of the City Council of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

C. The City may exceed the limits provided in subsection (A) of this section by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved

prior to October 10 of the fiscal year which is to be the first to exceed the limits. The City Council may call for the submission of the issue to the voters:

1. By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the county clerk or election commissioner or
2. Upon receipt of a petition by the county clerk or election commissioner requesting an election signed by at least 5% of the registered voters residing in the City.

D. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk or election commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 to §32-631. Any excess levy authority approved under this subsection shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit or as provided in subsection (E) of this section, whichever is earliest. The City Council may pass no more than one resolution calling for an election pursuant to this subsection during any one calendar year. There shall be no limit on the number of elections held pursuant to this subsection which are initiated by petition. The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in subsection (A) of this section but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax. The county clerk or election commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. Rev. Stat. §77-3442 or the final levy allocation as provided in Neb. Rev. Stat. §77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The City may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk or election commissioner, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk or election commissioner no later than 30 days prior to the date of the election.

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

1. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the county clerk or election commissioner or
2. Upon request of a petition by the county clerk or election commissioner requesting an election signed by at least 5% of the registered voters residing in the City.

F. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. Rev. Stat. §77-3442 through 77-3444) (Ord. No. 1420, 8/12/98)

SECTION 1-828: ALL-PURPOSE LEVY ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

A. 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 city 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.

B. 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.

C. 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.

D. Otherwise authorized extraordinary levies to service and pay bonded indebtedness may be made by the City in addition to the all-purpose levy.
(Neb. Rev. Stat. §19-1309 through 19-1312) (Am. by Ord. No. 1420, 8/12/98)

Article 9 – Compensation

SECTION 1-901: CITY OFFICIALS

The compensation of any elective official of the City shall not be increased or diminished during the term for which he/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/she resigns and desires to be rehired during the unexpired term of office. He/she may be rehired after the term of office during which he/she resigned at a greater salary. All salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk. (Neb. Rev. Stat. §17-108.02, 17-612)

SECTION 1-902: CONFLICT OF INTEREST

A. For purposes of this section, “officer” shall mean:

1. Any member of any board or commission of the City,
2. Any appointed official if such city official: (a) serves on a board or commission which spends and administers its own funds and (b) is dealing with a contract made by such board or commission, or
3. Any elected city official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

B. No officer of the 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, parent, spouse, or child:

1. Has a business with which the individual is associated or 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 or

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

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

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of 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 City as to inspection or performance under the contract in which he or she has an interest.

D. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of the 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 (A) through (C) 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 the parent, spouse, or child for special action. If an officer has the power to employ personnel and hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (E) (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.

E. The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (1) through (5) of this section 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 (C) (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 involved;
4. Amount of the contract; and
5. Basic terms of the contract.

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

G. An open account established for the benefit of any 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.

H. 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.

I. The City may enact ordinances exempting from the provisions of this section contracts involving \$100.00 dollars or less in which an officer of such City may have an interest.

J. No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than 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.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04) (Am. by Ord. Nos. 1147, 10/5/83; 1168, 11/7/84; 1207, 11/12/86)

SECTION 1-903: CONFLICT OF INTEREST; EXCEPTION

That the provisions of Neb. Rev. Stat. §18-301.01 to §18-301.04 pertaining to conflict of interest and the provisions of Section 1-902 of this code shall not apply to contracts involving \$100.00 or less in which an officer of the City may have an interest, and such officer need not file for such contracts a disclosure statement provided for in said sections. (Ord. No. 1154, 5/2/84)

SECTION 1-904: ELECTED OFFICIALS

The salaries to be paid by the City of Ainsworth to its elected officials shall be set by the City Council and filed in the office of the city clerk, where they shall be available for public inspection during office hours.

SECTION 1-905: CITY OFFICERS AND EMPLOYEES

Compensation of officers and employees of the City other than elected officials shall be in such amount as the City Council shall fix by ordinance; provided, after the City Council has adopted by ordinance a wage and salary schedule with appropriate employee classifications and wage ranges for each classification, such ordinance shall be sufficient for all changes in salary for city employees included hereunder without further ordinances being passed, approved, and published. Said wage and salary schedule shall be on file at the office of the city clerk and available for public inspection during office hours.

SECTION 1-906: PAY PLAN DEVELOPMENT

The mayor shall be responsible for the development, maintenance, and continued administration of the pay plan as set forth in this article.

SECTION 1-907: RANGE INCREASES

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.

SECTION 1-908: INCREASES, GENERALLY; MERIT PROMOTION

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.

Article 10 – Penal Provision

SECTION 1-1001: 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.