

## **CHAPTER 1 – CIVIL ADMINISTRATION**

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# **CHAPTER 1 – CIVIL ADMINISTRATION**

## **Article 1 – City Administration**

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

The City of Hickman, 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: SEAL; OFFICIAL CORPORATE**

The official corporate seal of the City shall be kept in the office of the city clerk, and shall bear the following inscription: "Seal, City of Hickman, Nebraska." The city 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 counter-

signed by the said clerk. (Neb. Rev. Stat. §17-502)

## **SECTION 1-103: BONDS; BLANKET BOND**

A. Official bonds of the City shall be in form, joint and several, and shall be made payable to the City in such penalty as the City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum when one has been set by the State of Nebraska for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no city official, while still in his 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 shall be eligible for suretyship on the bond of an official of the City.

B. 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. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the said instrument by the mayor and city clerk pursuant to the said approval of the Council. The premium on any official bond required to be given may be paid out of the General Fund or other proper city fund upon a resolution to that effect by the City Council at the beginning of any city year. 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.

C. In the event that the sureties on the official bond of any officer of the City, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which the 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. (Neb. Rev. Stat. §11-103 thru 11-118, 17-604)

D. All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City may pay the premium for the bond or insurance coverage, which 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. §10-201 through 10-411, 10-606 through 10-612, 11-204, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 233513, 39-836)

## **SECTION 1-104: OATH OF OFFICE; CITY OFFICIALS**

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

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

(Neb. Rev. Stat. §11-101)

## **SECTION 1-105: 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 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 municipal 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 or his or her 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 his/her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governmental body as to inspection or performance under the contract in which he/she has an interest.

D. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (C) (1) through (3) above, if an officer's parent, spouse or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his/her parent, spouse, or child for special action. If an officer has the power to employ personnel and he/she hires his/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 or less in which an officer may have an interest.

J. No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty, which shall come within the proper scope of the duties of any officer of the City.

(Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04)

## **Article 2 – Elected Officials**

### **SECTION 1-201: NUMBER AND QUALIFICATIONS**

The elected officials of the City shall consist of a mayor and six council members who shall be citizens of the United States, residents of the City and registered voters. A council member's term shall expire and the office become vacant upon his/her moving from the City. The council members shall qualify and meet on the first regular meeting in December following their election. (Neb. Rev. Stat. §17-103)

### **SECTION 1-202: TERMS OF OFFICE**

The term of office of the mayor and City Council is four years. Those members elected in 2008 shall continue to hold their office until December, 2012. Thereafter, three 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 1-203: MAYOR; SELECTION AND DUTIES**

The mayor of the City shall 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, in addition, be a qualified taxpayer. The mayor shall have the general and immediate control over all property and city officials, whether elected or appointed; preside at all meetings of the City Council and may vote when his/her vote shall be decisive and the Council is equally divided on any pending matter, legislation, or transaction and the mayor shall, for the purpose of such vote, be deemed

to be a member of the Council. His/her signature must appear on the city clerk's minutes of all meetings, and he/she must sign 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 his/her veto by a two-thirds vote by the council members. If the mayor neglects or refuses to sign any ordinance and returns it to the Council with his/her objections in writing at the next regular council meeting, the same shall become a law without a signature. He/she shall from time to time communicate to the City Council such information and recommendations as, in his/her opinion, may improve the City. The mayor may require any city official to exhibit his accounts and make reports to the Council on any subject pertaining to that office. He/she shall have the power to remit fines or pardon any offense arising under the ordinances of the City and may remove at any time an appointed police officer of the City. The mayor's territorial authority shall extend over all places within five miles of the corporate limits of the City for the enforcement of any health ordinance, and one-half mile in all matters vested in him/her except taxation. He/she shall also have such other duties as the City Council may by resolution confer, or in any other matters which the laws of the State of Nebraska repose in him/her. (Neb. Rev. Stat. §17-110 thru 17-117)

## **SECTION 1-204: CITY COUNCIL; POWERS AND DUTIES**

A. The City Council shall be the legislative division of the city government and shall perform such duties 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)

B. The City Council shall have all powers granted under the laws of the State of Nebraska, including but not limited to the following:

1. To pass ordinances to prevent and remove nuisances;
2. To prevent, restrain and suppress gambling and disorderly houses;
3. To license and regulate amusements;
4. To establish and provide for police protection;
5. To prevent the spread of contagious diseases;
6. To regulate business;
7. To erect, repair, construct and regulate public ways and property;
8. To maintain good government, public welfare and domestic tranquility; and
9. To enforce all ordinances by imposing penalties upon inhabitants or other persons for violation thereof not exceeding the amount permitted by Nebraska law for each offense, recoverable with costs, together with enforcement by injunction where necessary.

## **SECTION 1-205: 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 council members holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the city clerk shall report to the Council the names of all council members-elect who have qualified for their respective offices, and



this report shall be spread upon the minutes of the meeting preceding the roll call. (Neb. Rev. Stat. §17-104)

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

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

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

All resignations of 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.

## **SECTION 1-208: VACANCY**

A. Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560, except as provided in Neb. Rev. Stat. §32-561.

B. In the case of any vacancy in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the mayor returns. If the president of the Council assumes the office of mayor for the unexpired term, there shall be a vacancy on the Council.

C. Except as otherwise provided in subsection (B), (E), or (F) of this section, vacancies in city elected offices shall be filled by the mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three public places in the City the office vacated and the length of the unexpired term.

D. The mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time the mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the mayor shall continue at such meeting to

submit the names of qualified registered voters in nomination and the council members shall continue to vote upon such nominations until the vacancy is filled. The mayor shall cast his/her vote for or against the nominee in the case of a tie vote of the Council. All council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy shall have the same rights, including voting, as if such person were elected.

E. The mayor and City Council may, in lieu of filling a vacancy in an elected office as provided in subsection (C) of this section, call a special city election to fill such vacancy.

F. If vacancies exist in the offices of a majority of the City Council members, the secretary of state shall conduct a special city election to fill such vacancies.  
(Neb. Rev. Stat. §32-560, 32-561, 32-568(4) and 32-569) (Am. by Ord. No. 02-05, 5/14/02)

### **SECTION 1-209: SUCCESSION OF CONTROL**

In order to designate the succession of control of the City and to declare and control a disaster or emergency when the mayor is not present or is unable to act as the principal executive officer of the City, then the following is the procedure used to determine who is next in line to fulfill those duties and responsibilities:

A. 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.

B. Should the president of the Council 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.

C. 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.

### **SECTION 1-210: COMPENSATION**

A. All elected officers shall receive such compensation as the City Council shall fix by ordinance. The salaries of appointive and elective offices of this city shall be neither increased nor decreased during the term for which elected or appointed except by merger of offices or when there are other officers elected or appointed to the Council and the terms of one or more members commence and end at different times. The compensation of all members of such council may be increased or diminished at the beginning of the full term of any member thereof. All salaries shall be set by ordinance and will be available for public inspection at the office of the city clerk, and all such salaries shall be published as provided by law.

B. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he/she was elected or appointed, if during the same time the emoluments thereof have been increased. In addition to the salaries herein provided, the various officers shall be entitled to mileage and expenses if and when claims therefore are filed, audited and allowed. The mayor and Council may by resolu-

tion authorize clerical assistance in one or more offices when the same may be needed, and claims therefore out of the proper funds may be presented, allowed, audited and paid. All fees earned by an officer of this city in the performance of his/her duties as such shall be considered the property of the City and shall be promptly paid over to the city treasurer and credited to the appropriate fund.

(Neb. Rev. Stat. §17-108.02, 17-612)

## **SECTION 1-211: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE**

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

B. For purposes of this section:

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

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

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

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

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

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

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

## **Article 3 – Meetings**

### **SECTION 1-301: 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))

### **SECTION 1-302: PUBLIC BODY DEFINED**

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

1. The City Council of the City of Hickman,
2. All independent boards, commissions, bureaus, committees, councils, subunits, Certificate of Need appeal panels, or any other bodies now or hereafter created by Constitution, statute, 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 such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent bodies.

(Neb. Rev. Stat. §84-1409(1))

### **SECTION 1-303: PUBLIC MEETINGS; 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 advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the City Council and to the public by a method designated by the Council or by the mayor if the 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.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. The minutes of the city clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the City Council present or absent at each convened meeting.

C. The minutes of the Council shall be a public record open to inspection by the public upon request during normal office hours at the office of the city clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the city clerk shall show how each member voted, or that the member was absent and did not vote.

(Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413)

#### **SECTION 1-304: RIGHTS OF PUBLIC**

A. 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 1-311 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. It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings.

B. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, and shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

C. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to any meeting, nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself/herself.

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

### **SECTION 1-305: CHANGE IN OFFICE**

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

### **SECTION 1-306: ORGANIZATIONAL MEETING**

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

B. It is hereby made the duty of each and every member of the Council or his/her successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following his/her 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 his/her 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 the 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 his office, with the oath endorsed thereon.

### **SECTION 1-307: STANDING COMMITTEES**

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. In lieu of appointing standing committees, the City Council may act as such committees. 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. Each member of the standing committees shall serve a term of office of one year, unless reappointed. The following standing committees shall be appointed or reappointed each year until changed by the City Council:

1. Personnel
2. Streets and Sidewalks

3. Municipal Property
4. Utilities
5. Parks, Recreation and Beautification

(Am. by Ord. No. 2009-29, 12/8/09)

### **SECTION 1-308: NOTICE TO NEWS MEDIA**

The city clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411)

### **SECTION 1-309: REGULAR MEETINGS**

The City Council shall hold two regular meetings per month: on the second Tuesday of each month at 7:00 P.M. and on the fourth Tuesday of each month at 7:00 P.M., provided that the mayor or the Council, by majority vote, may change the time and/or the date if notice is given 48 hours in advance of the date and time for the regular meeting. The Council shall, by resolution, establish the ending time for regular meetings, and the regular meeting shall end at such time unless the Council shall, by majority vote, extend such ending time. (Am. by Ord. No. 94-12, 11/10/94; 2007-09, 5/22/07)

### **SECTION 1-310: SPECIAL MEETINGS**

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

B. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the mayor, if present, or by the president of the Council if the mayor is absent. In the absence of both the mayor and the president of the Council, the City Council members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 4 (Ordinances, Resolutions and Motions).

(Neb. Rev. Stat. §17-106)

### **SECTION 1-311: CLOSED SESSIONS**

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

1. Strategy sessions with respect to collective bargaining, real estate purchases, or litigation;
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 any public body.

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 public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken.

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

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, nor shall a public body designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article, nor shall any closed session, informal meeting, chance meeting, social gathering, or electronic communication 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 members of a public body 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 public body has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410)

## **SECTION 1-312: 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 city clerk shall make reasonable efforts to provide advance notice to news media concerning the time and place of any such meeting and the subjects to be discussed. 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)



## **SECTION 1-313: MINUTES**

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours. Minutes shall be written and available for inspection within ten working days, or prior to the next convened meeting, whichever occurs earlier. (Neb. Rev. Stat. §84-1412, 84-1413)

## **SECTION 1-314: VOTES**

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the City's utilization of an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §17-616, 84-1413) (Am. by Ord. No. 96-3, 2/22/96)

## **SECTION 1-315: CALL TO ORDER**

The mayor, or in his absence the president of the Council, shall take the chair precisely at the hour appointed for the council meeting and shall immediately call the Council to order. In the absence of the mayor and president of the Council, the city clerk or his/her assistant shall call the Council to order, whereupon a temporary president shall be elected by the members of the Council present. Upon the arrival of the mayor or president of the Council, the temporary president shall immediately relinquish the chair upon the conclusion of the business immediately before the Council. Before proceeding with the business of the City Council, the city clerk or assistant shall call the roll of the members, and the names of those present and absent shall be entered in the minutes. A majority of council members shall constitute a quorum at any regular or special meeting. In the absence of a quorum, a smaller number may adjourn from time to time and compel the attendance of absent members.

## **SECTION 1-316: ORDER OF BUSINESS**

A. 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 and the city attorney shall take their regular stations in the meeting place, and the business of the Council shall be taken up for consideration and disposition in the following order:

1. Roll call
2. Approval of minutes of previous meeting
3. Claims and payroll
4. Petitions, remonstrances and communications
5. Introduction and adoption of resolutions
6. Introduction of ordinances; first reading
  - a. Consideration; amendment; debate
  - b. Second reading and final passage
7. Report of officers, boards and committees
8. Unfinished business

9. New business
10. Miscellaneous
11. Adjournment

B. A motion to adjourn shall always be in order and shall be decided without debate.

#### **SECTION 1-317: READING OF MINUTES**

Unless a reading of the minutes of a City Council meeting is requested by a council member, such minutes may be approved without reading if the clerk has previously furnished each member with a copy thereof.

#### **SECTION 1-318: PARLIAMENTARY PROCEDURE**

A. The mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the Council. When any person is called to order, he/she shall be seated until the point is decided. When the mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his/her seat and address the presiding officer, confining himself/herself to the question. When two or more persons rise at once, the mayor shall recognize the one who spoke first.

B. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the city clerk or any member of the City Council. Every council member present when a question is voted upon shall cast his/her vote unless excused by a majority of the council members present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the council member making the motion or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes upon the request of any member of the City Council. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the council member seconding the said resolution, motion, or ordinance.

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

#### **SECTION 1-319: RULES OF DEBATE**

A. *Presiding Officer May Debate and Vote, etc.* The mayor or such other member of the City Council as may be presiding may move, second and debate from the chair, subject only to such limitation of debate as are imposed by these rules on all members,

and shall not be deprived of any of the rights and privileges of a council member by reason of his/her acting as the presiding officer.

B. *Getting the Floor; Improper Reference to be Avoided.* Every 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 personalities and indecorous language.

C. *Interruptions.* A member, once recognized, shall not be interrupted when speaking, unless it is to call him/her 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.

D. *Yielding the Floor.* A 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 and an 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.

E. *Limitation on Debate.* The Council may, by general rule, limit debate or discussion on any matter, or 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; and no member shall speak more than once on any subject under discussion without permission from the presiding officer.

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

G. *Motion to Consider.* A motion to reconsider any action taken by the Council may be made only on the day such action was taken. It may be made either immediately during the same session or at a recessed or adjourned session thereof. 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 or while a member has the floor and it shall be debatable. Nothing in this subsection shall be construed to prevent any council member from making or remaking the same or any other motion at a subsequent meeting of the Council.

H. *When 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.

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

J. *Dissenting or Protesting Member.* Any member dissenting from or protesting against any action of the City Council shall have the right to have the reasons for his/her dissent or protest entered on the minutes.

## **SECTION 1-320: ADDRESSING COUNCIL**

A. The presiding officer of the City Council may provide opportunity during council meetings for discussion by interested persons or their authorized representative on any action of the Council or other matter before the body prior to final passage.

B. 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 Council through the city clerk. Any such communication shall be placed on the agenda of the next regular council meeting under the order of business entitled "Council Correspondence."

C. Any person desiring to personally address the Council on any matter not then before it shall notify the city clerk in writing of his/her desire before noon the Wednesday prior to the scheduled council meeting at which he/she wishes to appear, and correctly complete a "Comment, Concern, & Agenda Request Form."

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

E. The presiding officer of the Council shall from time to time make such rules as he/she may deem necessary to fulfill and carry out the intent of the provisions of this article.

(Ord. No. 2008-17, 10/28/08)

## **SECTION 1-321: MANNER OF ADDRESSING THE COUNCIL; TIME LIMIT**

Each person addressing the City Council shall step up to the clerk's table and give his/her name and address for the record and, unless further time is granted by the Council, shall limit his/her address to five minutes. All remarks shall be addressed to the Council as a body and not to any 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 mayor.

## **SECTION 1-322: DECORUM, GENERALLY**

A. *By Council Members.* While the City Council is in session, the 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 mayor, except as otherwise provided in this article.

B. *By Other Persons.* No person shall make personal, impertinent or slanderous remarks, nor otherwise disturb the order and decorum of any council meeting.

## **Article 4 – Ordinances, Resolutions and Motions**

### **SECTION 1-401: GRANT OF POWER**

The City Council shall have the responsibility of making all ordinances, bylaws, rules,

regulations, and resolutions not inconsistent with state laws as may be necessary and proper for maintaining the peace, good government, and welfare of the City and its trade, commerce, and security. (Neb. Rev. Stat. §17-505)

#### **SECTION 1-402: STYLE**

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

#### **SECTION 1-403: TITLE**

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

#### **SECTION 1-404: INTRODUCTION**

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

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

B. With the recognition of the mayor, a council member may present his/her proposed ordinance to the clerk who, in the presence and hearing of a majority of the Council, shall read aloud the substance of the same and shall file the same for future consideration.

#### **SECTION 1-405: RESOLUTIONS AND MOTIONS**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the council members. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

#### **SECTION 1-406: PASSAGE**

Ordinances, resolutions, or orders for the appropriation of money shall require for their passage the concurrence of the majority of the City Council. Ordinances of a general or permanent nature shall be read by the title on three different days. This requirement may be suspended by three-fourths vote of the Council, in such case said ordinance may be read by title or number and then moved for final passage. Three-fourths of the Council may require any ordinance to be read in full before final passage under either process. (Neb. Rev. Stat. §17-614)

#### **SECTION 1-407: PUBLICATION OR POSTING**

All ordinances of a general nature shall be published one time within fifteen days after they are passed in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy thereof in each of three public places

in the City; or in book or pamphlet form. (Neb. Rev. Stat. §17-613)

#### **SECTION 1-408: 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 1-409: 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 shall be repealed. (Neb. Rev. Stat. §17-614)

#### **SECTION 1-410: EMERGENCY ORDINANCES**

In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or other emergency requiring its immediate operation, such 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 notice shall recite the emergency and be passed by a three-fourths vote of the City Council and entered upon the city clerk's minutes. (Neb. Rev. Stat. §17-613)

### **Article 5 – Appointed Officials**

#### **SECTION 1-501: GENERAL AUTHORITY**

The mayor, by and with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The mayor, by and with the consent of the City Council, shall appoint such a number of regular police officers and other officials as may be necessary and may establish a police reserve force as provided by law. All police officers and other appointed officials shall be subject to removal at any time by the mayor. (Neb. Rev. Stat. § 81-1438 thru 81-1446)

#### **SECTION 1-502: SALARIES**

The salary ranges for the appointed officials of the City shall be established by resolution of the City Council and shall be available for public inspection in the office of the city clerk during office hours. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. (Neb. Rev. Stat. §19-1102)

#### **SECTION 1-503: 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)

#### **SECTION 1-504: CLERK-TREASURER POSITION CREATED**

The statutory offices of the city clerk and the city treasurer are hereby merged and combined into one office which shall be entitled clerk-treasurer. The appointee to said office shall fulfill all of the duties of the offices of city clerk and city treasurer as provided by statute and Section 1-503 above and shall be entitled to all the benefits derived therefrom.

#### **SECTION 1-505: CITY CLERK**

A. The city clerk shall: attend the meetings of the City Council and keep a correct journal of the proceedings of that body; keep a record of all outstanding bonds against the City and when any bonds are sold, purchased, paid, or cancelled, said record shall show the fact; make, at the end of the fiscal year, a report of the business of the City transacted through the office for the year, and that record shall describe particularly the bonds issued and sold during the year and the terms of the sale with each and every item and expense thereof; file all official bonds after the same shall have been properly executed and approved; make the proper certificate of passage, which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

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

C. The city clerk shall: permit no records, public papers, or other documents of the City kept and preserved in the office to be taken therefrom except by such officers of the City as may be entitled to the use of the same, but only upon their leaving a receipt therefor; keep all the records of the office, including a record of all licenses issued, in a blank book with a proper index; include as part of the city records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same; endorse the date and hour of filing upon every paper or document filed in the office, and all such filings made shall be properly docketed. Included in his records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference.

D. The city clerk shall keep and preserve the proceedings of the City Council in two separate and distinct record books. The minute records shall contain a record of all the miscellaneous and informal doings of the Council. The minute record shall not include the passage and approval of ordinances except such resolutions incorporating by reference the ordinance record into the minute record. The ordinance record shall contain the formal proceedings of the Council in the matter of passing, approving, publishing, posting, and certifying of ordinances. After the formalities for the legal enactment of an ordinance have been completed, the city clerk shall record and spread at large in the

ordinance record the ordinance minutes on printed forms. In all cases hereafter where single ordinances are introduced for the consideration of the City Council, the city clerk shall cause to be introduced an appropriate resolution incorporating by reference the ordinance record into the minute record.

E. The city clerk shall keep an accurate and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he/she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

F. The city clerk shall: deliver all warrants, ordinances, and resolutions under his charge to the mayor for his/her signature and likewise deliver to officers, employees, and committees all resolutions and communications which are directed at them; with the seal of the City, duly attest the mayor's signature on all ordinances, deeds and papers required to be attested to when ordered to do so by the City Council; within 30 days after any meeting of the Council, prepare and publish the official proceedings of the Council in a legal newspaper of general circulation in the City, and which was duly designated as such by the Council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the job titles of all employees and their current annual, monthly, or hourly salaries shall be published and any changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January, and April shall be published during the months of November, February, and May; provided, the charge for such publication shall not exceed the rates provided by the statutes of the State of Nebraska. Said publication shall be charged against the General Fund. The clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by the City 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 city clerk's certificate under seal where the same are required to be posted only.

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

H. The city clerk shall be in charge of the Bureau of Violations, collecting fines for nonmoving traffic violations and maintaining records of the same.

I. The city clerk may charge a reasonable fee for certified copies of any record in the city office as set by resolution of the City Council. He/she shall destroy city records under the direction of the State Records Board pursuant to Neb. Rev. Stat. §84-1201 to 84-1220; provided, the City Council shall not have the authority to destroy the minutes of the city clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board. (Neb. Rev. Stat. §17-605, 19-1102, 19-



## **SECTION 1-506: DEPUTY CITY CLERK**

The city administrator may appoint a deputy clerk, who shall assist the city clerk-treasurer in the performance of his/her duties. In the absence of the city clerk-treasurer as determined by the mayor, or in the mayor's absence by the president of the Council, the deputy clerk shall perform the duties of the city clerk-treasurer as set by statute, ordinance, and resolution. (Neb. Rev. Stat. §17-604) (Am. by Ord. No. 96-19, 9/26/96; 2017-04, 2/14/17)

## **SECTION 1-507: CITY TREASURER**

The city treasurer shall be the custodian of all moneys belonging to the City and shall: keep a separate account of each fund or appropriation and the debits and credits belonging thereto; issue duplicate receipts for all moneys received for the City; give to every person paying money into the city treasury a receipt therefor, specifying the date of payment and the account paid; one of the receipts shall be filed with his/her monthly report and the last copy of the said receipt shall be kept on file in his/her office. The treasurer's books and accounts shall always be open for inspection by any citizen of the City 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. The treasurer shall: 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; collect all special taxes, allocate special assessments to the several owners, and obtain from the county treasurer a monthly report as to the collection of delinquent taxes. The treasurer's daily cash book shall be footed and balanced daily, and he/she shall adopt such bookkeeping methods as the City Council shall prescribe, investing and collecting all money owned by or owed to the City as directed by the Council. (Neb. Rev. Stat. §17-606 thru 17-609, 84-712)

## **SECTION 1-508: CITY TREASURER; MONTHLY REPORT**

The city treasurer shall be custodian of all moneys belonging to the City and shall:

A. At the end of each month and as often as may be required, render a report to the mayor and City Council showing, under oath, the condition of the various accounts of the treasury at the time of such reports and the balance of money in the treasury; such accounts shall be accompanied with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with the accounts in his/her office.

B. Produce depository evidence that all city money is in a solvent financial institution in the name of the City. If the city treasurer neglects or fails, for a period of ten days from the end of each and every month, to render his/her account, the office shall be declared vacant and the mayor and City Council shall fill the vacancy by appointment until the next election of city officials. (Neb. Rev. Stat. §17-606)

## **SECTION 1-509: CITY TREASURER; ANNUAL REPORT**

The city treasurer shall publish in a legal newspaper having general circulation within

the City, within 60 days following the close of the municipal fiscal year, a report of the activities of his/her office, which said report shall show in detail. Said report shall include all receipts, disbursements, warrants outstanding, and the debit or credit balance of the City. (Neb. Rev. Stat. §19-1101)

## **SECTION 1-510: FULL-TIME CITY ADMINISTRATOR**

A. *Establishment and Purpose.* There is hereby established the office of full-time city administrator. The purpose of the office of city administrator is to provide for the centralization of the administrative responsibilities of all affairs of the City which are under the direction of the mayor and City Council.

B. *Appointment and Responsibilities.*

1. The city administrator shall be the non-elected administrative head of the city government under the direction and control of the mayor and City Council. The city administrator shall be appointed by the mayor with the approval of a majority of the City Council.
2. All of the departments of the City shall be under the direct administrative supervision and direction of the city administrator. Except for purposes of inquiry, the mayor and City Council shall deal with the administrative services of the City through the city administrator.
3. The city administrator shall direct the affairs of the City to include planning, directing, and coordinating the personnel matters of all city employees, except as otherwise provided by city ordinances, state statutes or any applicable labor contracts made on the basis of merit; recruit, interview and test job applicants; ensure all appointments are made on the basis of merit; maintain a classification system, if any, for city employees and administer the pay plan; keep records of all city employees; ensure hearings for grievances promote training programs; and foster good employee relations.
4. The city administrator shall receive such compensation, benefits, allowances, and allocation as allowed within the employment services contract. A beginning annual base salary shall be agreed upon, with provisions for annual performance evaluations and possible salary and benefits increases in July of each year.

C. *Duties and Powers.* In addition to the general authority as administrative head, and not as limitation thereof, the full-time city administrator shall:

1. Recommend to the mayor and Council the appointment and dismissal of all department heads over which the administrator exercises jurisdiction. The city administrator is responsible for the appointment and dismissal of all subordinate city employees in the departments, divisions and services over which he/she exercises jurisdiction according to the laws of the City. The city administrator may also provide for the transfer of such employees within such departments, divisions and services to meet the City's varying workload, and/or emergencies.
2. Along with the city clerk, keep the mayor and City Council fully advised as

to the financial condition of the City and its future needs. The city administrator shall assist in the preparation of the annual estimates of revenues and expenditures of a proposed budget for the presentation of a complete financial plan for the mayor and council prior to the consideration and adoption of the annual appropriation ordinance by the council. He/she will be jointly responsible for the supervision and control of the budgeted expenditure items in annual budget.

3. Make investigations into all of the affairs of the City and make recommendations to the mayor and Council for the adoption of such measures and ordinances as are deemed necessary or expedient for the good of the city government.
4. Analyze the functions, duties and activities of the various departments, divisions and services of the City and all employees thereof and make recommendations regarding the same to the mayor and Council, and faithfully carry out the directions and recommendations of the mayor and Council in coordinating the administrative functions and operations of the various departments, divisions and services.
5. Investigate, or have investigated, all complaints filed against any employees, departments, divisions or services of the City and report such investigations with recommendations to the mayor and City Council.
6. Assist with economic development and city planning and zoning issues as requested and advise the planning commission clerk, Planning Commission and City Council of any matters pertaining to city economic development and planning.
7. Attend all meetings possible of the Hickman City Council with the duty of reporting any matter concerning city affairs under his/her supervision and direction; and represent the City at other meetings as his/her duties may require or as may be directed by the mayor and Council.
8. Perform such other duties and exercise such other powers as may be required by ordinance or employment service contract, or prescribed by resolution of the mayor and Council.

D. *Political Activity; Conflict of Interest.* The full-time city administrator shall not participate in any political activity, other than administrative requests, on behalf of candidates or issues involving public trust, except for the casting of an individual ballot. The city administrator shall be an officer of the City within the meaning of Neb. Rev. Stat. §16-502 and shall be subject to and bound by the prohibitions contained therein.

(Am. by Ord. Nos. 2006-08, 6/13/06; 2017-04, 2/14/17)

## **SECTION 1-511: CITY ATTORNEY**

The city attorney shall be the legal advisor of the City Council. He shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted or defended or that may be ordered by the Council. When requested, he shall attend meetings of the Council and give his opinion upon any matters submitted to him, either orally or in writing, as may be required. He shall draft or review for legal correctness ordinanc-

es, contracts, franchises and other instruments as may be required, and he shall perform such other duties as may be imposed upon him by general law or ordinance. The City Council shall have the right to pay the city attorney compensation for legal services performed by him for it on such terms as the Council and attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the City. (Neb. Rev. Stat. §17-610)

#### **SECTION 1-512: SPECIAL ENGINEER**

The City Council may employ a special engineer to make or assist the city engineer in making any particular estimate, survey, or other work. The special engineer shall make a record of the minutes of his surveys and all other work done for the City. He shall, when directed by the City Council, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Council. He shall, upon request of the Council, make estimates of the costs of labor and material which may be done or furnished by contract with the City and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require. All records of the special engineer shall be public records which shall belong to the City, and shall be turned over to his successor. (Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

#### **SECTION 1-513: MERGER OF BUILDING INSPECTOR, PLUMBING INSPECTOR AND ELECTRICAL INSPECTOR POSITIONS**

The appointive offices of city building inspector, city plumbing inspector, and city electrical inspector may be combined and merged in accordance with the authority granted to the City Council by Section 1-503. The Council, in its discretion, may combine or merge any or all of these offices. The 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.

#### **SECTION 1-514: CITY BUILDING INSPECTOR**

The city building inspector shall conduct surveys and make inspections in any area of the City to determine whether all buildings and structures are in compliance with the city ordinances. He shall investigate all complaints, whether verbal, written, or in the form of a petition alleging and charging that a violation of the city ordinances exists and that a building or structure is unfit or unsafe for human habitation. Upon properly identifying himself, the building inspector is authorized to enter, inspect, survey, and investigate any building or structure between the hours of 8:00 A.M. and 5:00 P.M. or at any time if an emergency exists or if requested by the owner or occupant thereof. He shall keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection, and he shall prepare an annual report including statistics based on the records kept. The building inspector shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he is the owner of a building, and he shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate. The building inspector shall report to the City Council as often

as may be deemed necessary, and shall have such other duties and issue such permits as the Council may direct. The building inspector may be removed at any time for good and sufficient cause by the Council.

#### **SECTION 1-515: CITY ELECTRICAL INSPECTOR**

The city electrical inspector shall enforce all laws relating to the installation of electrical wiring and connections thereto. When acting in good faith and without malice in the scope of his official duties, he shall not himself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or by reason of any act or omission in the discharge of his duties. In the discharge of his official duties, he shall, upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He shall perform such other duties and issue any permits that the City Council may direct. The electrical inspector may be removed at any time for good and sufficient cause by the Council.

#### **SECTION 1-516: CITY PLUMBING INSPECTOR**

The city plumbing inspector shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith and without malice in the scope of his official duties, he shall not himself be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or by reason of any act or omission in the discharge of his duties. In the discharge of his official duties, he shall, upon proper identification, have authority to enter into any building, structure, or premises at any reasonable hour. He shall perform such other duties and issue any permits that the City Council may direct. The plumbing inspector may be removed at any time for good and sufficient cause by the Council.

#### **SECTION 1-517: POLICE DEPARTMENT; CONTRACT WITH COUNTY SHERIFF'S OFFICE**

The City of Hickman may enter into a contract with the County Board of Lancaster County for police and law enforcement services to be provided by the Lancaster 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 Hickman. 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.

#### **SECTION 1-518: COUNTY SHERIFF AS LAW ENFORCEMENT OFFICER**

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.

### **Article 6 – Elections**

#### **SECTION 1-601: GENERALLY**

A. The city primary and general election shall be held in accordance with the pro-

visions of Neb. Rev. Stat. Chapter 32. The City Council has determined, by ordinance duly adopted, to hold the city election in conjunction with the statewide primary election, held on the first Tuesday after the second Monday in May of each even-numbered year. The county clerk shall have charge of the election and shall have the authority to deputize the city clerk for city election purposes. Charges shall be paid to the county clerk as set forth in Neb. Rev. Stat. §32-4,147.

B. Commencing with the statewide primary election in 1976, and every two years thereafter, those candidates for mayor and for positions on the City Council whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

(Neb. Rev. Stat. §32-4,146, 32-4,147, 32-505, 32-533)

### **SECTION 1-602: CITY COUNCIL MEMBERS**

Council members shall be elected from the City at large. Members shall serve for a term of four years and shall be residents and qualified electors. (Neb. Rev. Stat. §32-554)

### **SECTION 1-603: CANDIDATE QUALIFICATIONS**

Any person seeking elected office in the City shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. (Neb. Rev. Stat. §17-104)

### **SECTION 1-604: CERTIFICATION**

No later than July 1 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 City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-532, 32-556)

### **SECTION 1-605: FILING FEE**

Prior to the filing of any nomination papers, a filing fee shall be paid to the city treasurer which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or an office for which there is a salary of less than \$500.00 per year. No nominating papers shall be filed until the proper city treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Neb. Rev. Stat. §32-513)

### **SECTION 1-606: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING**

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. (Neb. Rev. Stat. §17-107.02(4))

## **SECTION 1-607: GENERAL ELECTION; PREPARATION OF BALLOT**

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

B. The county clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing.

(Neb. Rev. Stat. §17-107.02(6)&(7))

## **SECTION 1-608: GENERAL ELECTION; BALLOTS; EXPENSE**

The county clerk shall provide printed ballots for every general city election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Neb. Rev. Stat. §32-417, 32-418)

## **SECTION 1-609: JOINT, GENERAL; NOTICE**

The county clerk shall publish in a newspaper designated by the County Board a notice of the election no less than 40 days prior to the primary or general election. This notice will serve the notice requirement for all city elections which are held in conjunction with the County. (Neb. Rev. Stat. §32-402.01)

## **SECTION 1-610: SPECIAL**

A. Except as provided in Neb. Rev. Stat. §77-3444, any issue to be submitted to the registered voters at a special election by the City shall be certified by the city clerk to the election commissioner or county clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 to 32-959. Any other special election shall be subject to subsection (D) of this section.

B. In lieu of submitting the issue at a special election, the City may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the city clerk to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election.

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 and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots, 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 County Canvassing Board shall have the same force and effect as if made by the City Council. (Neb. Rev. Stat. §32-559)

D. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. (Neb. Rev. Stat. §32-405) (Am. by Ord. No. 04-11, 11/9/04)

### **SECTION 1-611: PETITION CANDIDATES**

Candidates for any city office may be nominated by petition. Petitions shall contain signatures of registered voters totaling not less than ten percent of the total votes received by the candidate receiving the highest number of votes in the City or ward at the preceding general election in which officers were last elected to such office. They shall be accompanied by a treasurer's receipt for the filing fees for the office being sought. All petitions shall provide a space at least 2½ inches long for written signatures, a space at least 2 inches long for printed names, and sufficient space for any additional information which may be required. Lines on such petitions shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-713. Petitions must be filed at least 60 days prior to the state primary. (Neb. Rev. Stat. §32-4,156, 32-504, 32-513, 32-535, 32-713)

### **SECTION 1-612: NOMINATION BY WRITE-IN VOTES**

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for the City Council, such person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless he/she shall have received not less than 20% of the total vote cast for the candidate receiving the greatest number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward.

### **SECTION 1-613: VOTER QUALIFICATIONS**

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



## **SECTION 1-614: EXIT POLLS**

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1221)

## **SECTION 1-615: TIE VOTES**

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the Canvassing Board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Neb. Rev. Stat. §17-107.02(6))

## **SECTION 1-616: CERTIFICATE OF ELECTION**

After the canvass of the vote at the city election, the city clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote and in the form as nearly as possible prescribed by state law, which shall be signed by the mayor under the seal of the City and countersigned by the city clerk. The said certificates shall then be delivered to the persons so elected. (Neb. Rev. Stat. §32-4,111, 32-4,152)

## **SECTION 1-617: 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 1-618: RECALL PROCEDURE**

A. For purposes of this section, "filing clerk" means the election commissioner or county clerk. (Neb. Rev. Stat. §32-1301)

B. The mayor, a member of the City Council, and any other elected official of the city may be removed from office by recall pursuant to Neb. Rev. Stat. § 32-1301 to 32-1309.

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

the recall provisions shall apply to the registered voters at the general election. (Neb. Rev. Stat. §32-1302)

D. A petition demanding that the question of removing the mayor, a member of the City Council, or any other elected official of the City 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 such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

E. Petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-630.

F. The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he/she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the affidavit. The filing 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.

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

H. Petition signers shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his/her place of residence to vote for the office in question. (Neb. Rev. Stat. §32-1303)

I. Each petition paper shall conform to the requirements of Neb. Rev. Stat. §32-1304.

J. The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators.

K. Within 15 days after the filing of the petition, the filing clerk shall ascertain

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

L. If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the 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, except that if any other election is to be held in the city within 90 days of the expiration of the five-day period, the Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held. (Neb. Rev. Stat. §32-1306)

M. The form of the official ballot at a recall election shall conform to the requirements of Neb. Rev. Stat. §32-1307.

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

O. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office, which shall be filled as otherwise provided in this section and state law.

P. 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 election commissioner or county clerk that he/she does not want a recount.

Q. 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.

R. 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/her removal or the removal of any other member of the same City Council during the remainder of his or her term of office. (Neb. Rev. Stat. §32-1308)

S. No recall petition shall be filed against an elected official within 12 months af-

ter a recall election has failed to remove him/her from office or within six months after the beginning of his/her term of office or within six months prior to the incumbent filing deadline for the office.

(Neb. Rev. Stat. §32-1309) (Am. by Ord. No. 04-12, 11/9/04)

## **Article 7 – Fiscal Management**

### **SECTION 1-701: FISCAL YEAR**

The fiscal year of the City and any public utility of the City commences on October 1 and extends through the following September 30, except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701) (Am. by Ord. No. 96-4, 2/22/96)

### **SECTION 1-702: DEPOSIT OF FUNDS**

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

B. The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, 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. (Neb. Rev. Stat. §17-607)

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

D. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. Rev. Stat. §17-607, 77-2362)  
(Am. by Ord. No. 04-13, 11/9/04)

### **SECTION 1-703: INVESTMENT OF FUNDS**

Whenever a city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any

such bonds which become due during the current year, the 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. 99-2, 1/11/90)

#### **SECTION 1-704: 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 1-705: 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 1-706: 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 1-707: BOND ISSUES**

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

#### **SECTION 1-708: 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 purpose of the adopted budget statement of the City or for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot.

B. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund.

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

## **SECTION 1-709: TRANSFER OF FUNDS**

A. 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 herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing, at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of any such hearing.

B. Notice of the place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement stating the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

C. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said board shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be re-

ferred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(Neb. Rev. Stat. §13-510, 13-511)

## **SECTION 1-710: 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 1-711: CONTRACTS**

A. The City Council shall, before making any contract in excess of \$30,000.00 as estimated by the city engineer for general improvements such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, advertise for bids, unless such contract shall be entered into for the benefit of the city electric utility.

B. The City's 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 municipal electric utility has gross annual revenue from retail sales in excess of \$1 million;
3. \$90,000.00 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$5 million; or
4. \$120,000.00 or less and the municipal electric utility has gross annual revenue from retail sales in excess of \$10 million.

In advertising for bids for any such work, or for the purchase of such equipment, the City Council may cause the amount of such estimate to be published therewith.

C. Such advertisement shall be published once each week for three consecutive weeks in a legal newspaper of general circulation in the City, or by posting a written or printed copy thereof in each of three public places in the City; provided, in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to life, health, or property, or war, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths vote of the City Council.

D. If, after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract for services, material, or labor, or if the bids received by the City Council contain a price which exceeds the estimated cost of the project, the Council shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

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

F. The city bidding procedure shall be waived when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure.  
(Neb. Rev. Stat. §17-568.01, 17-613)

## **SECTION 1-712: 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 City Council. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of such audits shall appear separately in the annual audit report. Such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements.

B. 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, thereafter open for public inspection during office hours. One copy shall be filed with the auditor of public accounts. The City Council shall provide and file with the city clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.  
(Neb. Rev. Stat. §19-2901 through 19-2909, 13-606)

## **SECTION 1-713: BUDGET STATEMENT; APPROPRIATIONS**

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Neb. Rev. Stat. §17-706) (Am. by Ord. No. 96-6, 2/22/96)

## **SECTION 1-714: 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 1-715: PROPOSED BUDGET STATEMENT**

A. The City Council shall, not later than August 1 of each year on forms pre-



scribed and furnished by the state auditor, prepare in writing and file with the city clerk a proposed budget statement containing the following:

1. For the immediate two prior fiscal years, the budgeted revenue and expenditures from all sources, separately stated as to each such source, and for each fund the budgeted unencumbered cash balance of such fund at the beginning of each fiscal year;
2. For the current fiscal year, the budgeted revenue and expenditures from all sources, separately stated as to each such source, and for each fund the budgeted unencumbered cash balance of such fund at the beginning of the year. Such statement shall contain the cash reserve for each such fund for each fiscal year. 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; and
3. For the immediate ensuing fiscal year, the budget statement should include an estimate of the non-tax revenue from each source and which fund it is to be allocated to, the actual or estimated unencumbered cash balance for each fund which will be available at the beginning of the next fiscal year, amounts proposed to be expended during the year, and the amount of cash reserve, which shall not exceed 50% of the total budget adopted, exclusive of capital outlay items.

B. 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 other than taxation 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, as determined herein, plus the estimated revenue from sources other than taxation and the unencumbered balances shall equal the estimated expenditures plus the required cash reserve for the ensuing year.

(Neb. Rev. Stat. §13-504, 13-505)

### **SECTION 1-716: BUDGET STATEMENT; HEARING**

Subsequent to the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. After such hearing, the statement shall be adopted, or amended, and adopted as amended, and a written record shall be made of such hearing. 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. (Neb. Rev. Stat. §13-506)

### **SECTION 1-717: BUDGET STATEMENT; FILING**

The City Council shall file with and certify to the levying board on or before September 20 each year and file with the state auditor a copy of the adopted budget statement, together with the amount of tax to be levied and proof of publication. The City Council

shall not certify any tax that exceeds the maximum levy prescribed by state law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (Neb. Rev. Stat. §13-508) (Am. by Ord. No. 96-5, 2/22/96)

### **SECTION 1-718: ALL-PURPOSE LEVY; EXTRAORDINARY LEVY**

The City Council has determined that the amount of money to be raised by taxation shall be certified to the county clerk in the form of one all-purpose levy instead of certifying a schedule of levies for specific purposes added together. Said all-purpose levy shall not exceed an annual levy of \$1.05 on each \$100.00 upon the actual valuation of all taxable property in the City, except intangible property. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made in addition to the all-purpose levy. (Neb. Rev. Stat. §19-1309)

### **SECTION 1-719: ALL-PURPOSE LEVY; ALLOCATION**

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 shall deem best. (Neb. Rev. Stat. §19-1310)

### **SECTION 1-720: PROPERTY TAX LEVY AND REQUEST; PROCEDURE**

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. 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 City at least five days prior to the hearing.

B. The hearing notice shall contain the following information: (1) The dollar amount of the prior 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.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk on or before October 13 of the year for which the tax request is to apply.

D. Any levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606. (Neb. Rev. Stat. §77-1601.02)

### **SECTION 1-721: 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). The City may levy a maximum of \$0.45 per \$100.00 of taxable valuation of property subject to the levy, plus an additional \$0.05 per \$100.00 of tax-

able 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 or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-301; museum pursuant to Neb. Rev. Stat. §51-401; visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637; or statue, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for any judgment obtained against the City, except judgments or orders from the Commission of Industrial Relations, which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the City, for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport, are not included in the levy limits established by this 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). (Neb. Rev. Stat. §77-3443)

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 municipal levy limit provided by subsection (A), except that such limitation shall not apply to property tax levies for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For off-street parking districts established under the Off-Street Parking District Act, the tax shall be counted in the allocation by the City proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the City, multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The 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 (F).

C. On or before August 1, all political subdivisions subject to municipal 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 governing body of the political subdivision. 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.

D. The City Council shall adopt a resolution by a majority vote of members present, which determines a final allocation of levy authority to its political subdivisions and forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

E. 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. (Neb. Rev. Stat. §77-3443)

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

G. 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 Council and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the City; or (2) upon receipt of a petition by the county clerk or election commissioner of every county containing all or part of the City, requesting an election, signed by at least 5% of the registered voters residing in the City.

H. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) and the duration of the excess levy authority, which shall not be more 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.

I. 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. §32-32-628 through 32-631.

J. Any approved excess levy authority 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 (H), whichever is earliest.

K. The City Council may pass no more than one resolution calling for an election during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated. 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.

L. 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), 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.

M. 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.

N. The City Council may call for the submission of the issue to the voters 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 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.

O. 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 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. §77-3444)

## **SECTION 1-722: 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 1-723: GENERAL PROPERTY TAX**

The City Council shall cause to be certified to the county clerk the amount of tax to be levied upon the assessed value of all the taxable property of the City for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by state law. (Neb. Rev. Stat. §17-702)

# **Article 8 – Penal Provision**

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

Any person who shall violate or refuse to comply with the enforcement of any of the

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