

PREFACE

This Municipal Code of David City, Nebraska, 2006, contains all the ordinances of the Municipality of a general nature. Certain ordinances which are continued in force after this codification for the purpose of rights acquired, fines, penalties, forfeitures, liabilities incurred, and actions therefore have been omitted from this publication.

A Table of Contents appears after this page, and a complete index to the subject matter included in the several chapters and sections herein will be found at the end of this volume. Convenient cross-references to the Statutes of Nebraska indicate the source of legislative power and supplement the text.

The text of the David City Municipal Code, 2006, is arranged in the same manner as the Revised Statutes of Nebraska. The number preceding the hyphen is the chapter number; immediately following the hyphen is the article number; and following that is the section number. Each section number is complete within itself indicating the number of the chapter, article, and section.

ORDINANCES OF A GENERAL AND PERMANENT NATURE

of the

CITY OF DAVID CITY, NEBRASKA

ORDINANCE NO. 1040

An ordinance of the City of David City, Nebraska codifying the general ordinances of the Municipality, repealing prior ordinances in conflict herewith.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF DAVID CITY, NEBRASKA.

Section 1. Codification. The general ordinances of the Municipality of David City, Nebraska, are hereby codified into eleven chapters and the articles and sections thereunder, which are adopted and declared to be ordinances of this Municipality.

Section 2. Repeal of Prior Ordinances in Conflict. All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with this ordinance or with any of the provisions of this ordinance, are hereby repealed; Provided, that in construing the provisions of this ordinance the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to-wit:

1. Ordinances vacating streets and alleys.
2. Ordinances authorizing or directing public improvements to be made.
3. Ordinances levying taxes or special assessments.
4. Ordinances granting any right, privilege, franchise, or license to persons, firms, or corporations.
5. Ordinances providing for the issuance of bonds or other instruments of indebtedness.
6. Ordinances establishing grades.
7. Real Estate Transactions.
8. Any other ordinance which by nature would be considered special.

Section 3. Exceptions. The repeal of ordinances as provided in Section 2, Ordinance No. 1040 shall not affect any rights acquired, fines, penalties, forfeitures, or liabilities incurred there under, or actions involving any of the provisions of such ordinances and parts thereof. Such ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this general codification ordinance for the purpose of all rights, fines, penalties, forfeitures, liabilities, and actions therefore.

Section 4. Defining Chapters, Articles, and Sections. The chapters, articles, and sections as set forth herein shall be and hereby are declared to be the chapters, articles, and sections of this general codification ordinance. All ordinances hereafter passed by the local Governing Body of the Municipality shall be numbered consecutively, beginning with No. 1041.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause, phrase, term, or provision of this ordinance should be declared invalid by any court of competent jurisdiction for any reason whatsoever, such decision shall not affect the remaining portions of this code, which will remain in full force and effect, and the provisions of this ordinance are

hereby declared to be severable.

Section 6. Blanket Penalty. Any person, his agents, or servants who shall violate any of the provisions of this Municipal code unless otherwise specifically provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding one hundred (\$100.00) dollars. Whoever aids, abets, procures, encourages, requests, advises, or incites another to commit any act which is an offense under this Code or under any other ordinance of the Municipality may be prosecuted and punished as though he were the principal offender.

Section 7. General Definitions:

1. Person. Whenever used in this code, the word person shall include natural persons, artificial persons, such as corporations, co-partnerships, associations, and all aggregate organizations of whatever character.
2. Gender and Number. All words used herein implying the masculine gender may apply to, and include the feminine or neuter gender and all words importing the plural may be applied to, and mean a single person, firm, or thing. All words importing the singular number may be applied to and mean the plural number.
3. Code, Ordinance, and Chapter. Municipal Code shall mean the General Codification Ordinance No. 486. Ordinance and chapter are used synonymously unless from the context the contrary clearly appears.
4. Wholesale Dealer. The words wholesale dealer of sellers of said product at wholesale shall embrace and include manufacturers of any product who sell the said product to other persons for the purpose of future resale to consumers.
5. Municipal and Municipality. The words Municipal and Municipality whenever used in this code mean the City of David City, Nebraska, a Municipal Corporation.
6. Governing Body. The words Governing Body, whenever they appear in this Code mean the Mayor and City Council of the Municipality.
7. Mayor. The word Mayor means the Chief Administrative Official of the Municipality whenever it appears in this Code.
8. Municipal Police. Municipal Police shall mean any police officer of the Municipality whenever it appears in this Code.

Section 8. Time. Whenever words fixing or importing time or the hour of the day are used in this Code, they shall be construed to mean Central Standard Time or Central Daylight Savings Time whichever is applicable.

Section 9. Construction of Chapters, Articles, and Sections. For purposes of construction each chapter contained and arranged in this Code shall be considered as a separate and distinct ordinance grouped for convenience under the General Codification Ordinance No. 486, each section appearing in the several chapters of this Code shall be considered a separate and distinct unit of legislation germane to the chapter or article under which it is grouped and each article appearing in the said chapters shall be considered as a group of legislative units germane to the chapter wherein it is placed. Any chapter, article, or section duly enacted by the Governing Body of the Municipality and included in this Code, and other independent ordinance, chapter, article, section, or subsection of an ordinance duly enacted shall be altered, amended, or revised only by the complete nullification and repeal of such ordinance, chapter, article, section, or subsection and by the substitution of a new ordinance, chapter, article, section, or subsection containing the entire ordinance, chapter, article, section, or subsection as amended, altered, or revised.

Section 10. Publication and Distribution. This code was printed in book form under the direction of the Governing Body, and shall be distributed as they may see fit. (*Ref. 17-613, 17-614 RS Neb.*)

Section 11. When Operative. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

Passed and approved this 13th day of December, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

**Chapter 1
ADMINISTRATIVE**

Article 1. Elected Officials

- §1-101** **CITY MAYOR; SELECTION AND DUTIES.** The Mayor of the Municipality shall have the general and immediate control over all property, and officials, whether elected, or appointed, of the Municipality. He or she shall preside at all meetings of the City Council, and may vote when his 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 or her signature must appear on the City Clerk's minutes of all meetings, and he or 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 veto by a two-thirds (2/3) vote by the members of the City Council, but if the Mayor neglects or refuses to sign any ordinance, and returns it to the Council with his or her objections in writing at the next regular Council meeting, the same shall become a law without his signature. He or she shall from time to time communicate to the Council such information and recommendations as, in his opinion, may improve the Municipality. He or she may require at reasonable intervals any city official to exhibit his or her accounts and make reports to the Council on any subject pertaining to his or her office. He or she shall have the power to remit fines or pardon any offense arising under the ordinances of the Municipality. He or she may remove at any time an appointed police officer of the Municipality. His or her territorial authority shall extend over all places within five (5) miles of the corporate limits of the Municipality for the enforcement of any health ordinance, and one half (1/2) mile in all matters vested in him or her except taxation. He or she shall also have such other duties as the City Council may by resolution confer upon him or her, or in any other matters which the laws of the State of Nebraska repose in him or her. He or she shall be elected at the Municipal Election, and shall serve a four (4) year term of office. The Mayor shall be a resident and registered voter of the city. (*Neb. RS 17-107, 17-110 thru 17-117*)
- §1-102** **CITY COUNCIL; ACTING PRESIDENT.** The City Council shall elect one (1) of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect (1) of its own body to occupy his place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be binding upon the City Council, and upon the Municipality as if done by the elected Mayor. (*Neb. RS 17-148*)
- §1-103** **CITY COUNCIL; SELECTION AND DUTIES.** The members of the City Council shall be elected and serve for a four (4) year term. The City Council shall be the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (*Neb. RS*

17-103, 17-104)

§1-104 **CITY COUNCIL; ORGANIZATION.** City Council members of this Municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City 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. Each ward of the Municipality shall be represented by at least two (2) Council members. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he is qualified and should any City Council member move from the ward from which he was elected, his office shall thereby become vacant. (*Neb. RS 17-104*)

§1-105 **ELECTED OFFICIALS; VACANCY**

- (A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561. (*Neb. RS 32-560*)
- (B) In the case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the Council shall exercise the office of Mayor for the unexpired term until such 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. (*Neb. RS 32-568(4)*)
- (C) (1) Except as otherwise provided in subsections (B), (D), or (E) 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.
- (2) 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 shall continue to vote upon such nominations until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

- (D) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in subsection (C) of this section, call a special city election to fill such vacancy.
- (E) If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (Neb. RS 32-569)

§1-106 VACANCY DUE TO UNEXCUSED ABSENCES

- (A) In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the council unless the absences are excused by a majority voted of the remaining members.
(Neb. RS 19-3101)
- (B) The City Council shall take a vote on whether to excuse a member's absence from a meeting upon either (1) a written request from the member submitted to the City Clerk or (2) a motion of any other council member.
- (C) If a council member has been absent from six consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the City Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the council shall set a date for a hearing and direct the City Clerk to give the member notice of the hearing by personal service of first class mail to the member's last-known address.
- (D) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the council does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the council.

§1-107 ELECTED OFFICIALS; MAYOR; VACANCY. Whenever a vacancy occurs in the office of Mayor, or in case of his disability or absence, the President of the Council shall exercise the office of Mayor until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns. When the successful candidate for Mayor shall be prevented from assuming office, the incumbent mayor shall not be entitled to hold over the term, but such office shall automatically become vacant and the President of the Council shall exercise the office of Mayor until such

vacancy is filled. If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in section 1-105.

Article 2. Appointed Officials

§1-201 APPOINTED OFFICIALS; GENERAL AUTHORITY.

- (A) The Mayor, by and with the consent of the City Council, may appoint a City Administrator, City Clerk, Deputy City Clerk, City Treasurer, City Attorney, City Physician, City Police Chief, City Street Commissioner, City Electric Supervisor, City Electric Plant Supervisor, City Water Supervisor, City Wastewater Supervisor, City Zoning Administrator, City Engineer, City Park and Recreation Superintendent. These positions are considered Discretionary At-Will Employees; they are to be selected on merit and serve at the pleasure of the Mayor. These appointments will function on a continual basis until retirement, resignation, or removal by the Mayor.

The Mayor, with the consent of the City Council, shall appoint such number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. (*Neb. RS 17-107*)

- (B) All police officers, including the Chief of Police, and other appointed officials may be removed at any time by the Mayor.

The City Council may, at their discretion, review any termination or removal from service of any appointed official by the Mayor. The Council may uphold, reverse, or modify the removal or termination from service.

All police officers, including the chief of police, may appeal such removal, demotion, or suspension to the city council in accordance with Neb. RS 17-107. After a hearing, the city council may uphold, reverse, or modify the removal or disciplinary action. (*Neb. RS 17-107*)

§1-202 **APPOINTED OFFICIALS; CITY ADMINISTRATOR ESTABLISHED.** The office of Administrator of the City of David City, Nebraska is hereby established as provided by law. Such officer shall be appointed by the Mayor with the approval of a majority of the City Council and may be removed at any time by the Mayor with the approval of a majority of the City Council. The salary of the Administrator shall be fixed by resolution and shall be payable monthly.

§1-202.01 APPOINTED OFFICIALS: CITY ADMINISTRATOR; DUTIES AND RESPONSIBILITIES

The City Administrator shall be appointed by the Mayor, with the approval of a majority of the City Council.

The Administrator directs and supervises all departments of City government, and is responsible for the City's compliance with all statutes, codes, ordinances, and policies.

The Administrator works under legislative direction of the City Council and administrative direction of the Mayor. He/she is to be available to citizens and employees during normal business hours.

I.

Administrative duties of the City Administrator include the following:

Attend all meetings of the City Council and report on matters concerning city affairs under his/her supervision and direction. Keep the Council informed regarding operations and problems and recommend solutions.

Direct the preparation of agendas and agenda packets for the Mayor, Council, and other persons requesting such information.

Attend meetings of departments and officials relevant to city affairs, or as directed by the Mayor and Council.

Evaluate all City business and projects and make recommendations to the Mayor and Council for the adoption of measures and ordinances deemed necessary for the good government of the City.

Continuously monitor and evaluate the efficiency and effectiveness of the City's organization structure, staffing patterns, service levels and administrative systems, and work with the Mayor and Council to implement necessary improvements.

Prepare and present periodic reports on the City's operation.

Initiate, prepare and present studies and research reports.

Supervise contracts and bids.

Maintain contact with State and Federal agencies in all matters regarding the City, analyze the City's position on State and Federal legislation which may impact the City, and communicate the city's position to appropriate individuals and committees of the State and Federal Government.

Obtain information concerning Federal and State funds available to the City. Identify qualifying need areas and implement necessary procedures to obtain such funds if so directed by the Mayor and Council.

Advise citizens, property owners, contractors, and others on questions relating to City code.

Attend authorized meetings and seminars that provide continuing education in matters relating to City administration.

II.

Financial duties of the City Administrator include the following:

Keep the Mayor and Council fully advised on the financial condition of the City.

Prepare annual estimates of revenues and expenditures and submit a proposed budget of a complete financial plan for the City to the Mayor and Council 30 days

prior to the consideration and adoption of the annual budget by the Council.

Supervise authorized budget expenditures.

Present monthly reports to the Council regarding current budget and expenditures.

Evaluate all City revenues and make suggestions and recommendations on rates and prices charged for all City services.

Review all employee benefits and recommend changes as needed.
Prepare insurance specifications for the City and obtain bids.

Assist accountants with questions regarding the yearly audit.

Be responsible for long-range financial planning.

Investigate and report on alternate revenue sources for City projects.

III.

Duties of the City Administrator regarding **Personnel** include the following:

Plan, coordinate, and supervise personnel matters for all departments of the City.

Keep the City Personnel Handbook up-to-date and accurate according to changing laws and regulations.

Recommend to the Mayor and Council the appointment and dismissal of appointed personnel.

In coordination with appropriate department heads, is responsible for the appointment and dismissal of all subordinate employees in departments over which he/she exercises jurisdiction.

Provide for the transfer of workers between departments to meet varying workload emergencies.

Build good employee relations.
Hold periodic staff meetings with all department heads and employees.

Supervise the City's annual written employee evaluation process.

Conduct an annual review of the City's class specifications and compensation plan for all employees and recommend changes as needed.

IV.

Community Development duties of the City Administration include the following:

Oversee and assist in the development of long-range and short-range plans for the

City, developing goals, objectives, and priorities. Keep department heads involved and informed concerning these plans.

Provide direction and assistance to citizens, community groups and, community promotional organizations to implement community development goals.

Serve as a liaison with outside agencies and organizations encouraging economic development.

V.

Public relations duties of the City Administrator include the following:

As chief public relations ambassador, the City Administrator is responsible to develop cooperative relationships with citizens, the media, and local business and community groups.

Receive, investigate, and act upon citizen complaints.

VI.

Qualification requirements for the position of City Administrator include the following:

Graduation from a four-year college/university with a bachelor's degree in public or business administration or related field. A Master's degree is desirable, but not required.

Ability to plan, organize, staff, direct, coordinate, and evaluate city programs.

Ability to communicate clearly and concisely.

Ability to perform related duties as assigned by the Mayor and City Council.

§1-203 APPOINTED OFFICIALS; 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. He or she shall keep a record of all outstanding bonds against the city and when any bonds are sold, purchased, paid, or canceled, the record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the city transacted through his or her office for the year. 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. He or she shall file all official bonds after the same shall have been properly executed, and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

(B) The City Clerk shall issue and sign all licenses, permits, and occupation tax receipts

authorized by law and required by the city ordinances. He or she shall collect all occupation taxes and license money except where some other city officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the city and the purpose for which they have been issued.

- (C) The City Clerk shall permit no records, public papers, or other documents of the city kept and preserved in his or her office to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions, and ordinances relating to the same. He or she shall endorse the date, and hour of filing upon every paper, or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.
- (D) (1) The City Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at said officers, employees, or committees. With the seal of the city, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by City Council.
- (2) Within 30 days after any meeting of the City Council, the City Clerk shall prepare and publish the official proceedings of the City Council in a legal newspaper of general circulation in the city, and which was duly designated as such by the City Council. This publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as 1 item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to those job titles shall be published. Each charge for this publication shall not exceed the rates provided by the statutes of the state, Neb. RS 23-122. (*Neb. RS 19-1102*)
- (3) The above-mentioned publication shall be charged against the general fund.
- (4) The City Clerk shall then keep a book with a proper index, copies of all notices required to be published or posted by the City Clerk by order of the City Council, or under the ordinances of the city. To each of the file copies of these notices shall be attached the printer's affidavit of publication, if the notices are required

to be published, or the City Clerk's certificate under seal where the same are required to be posted only. (*Neb. RS 19-1102*)

- (E) The City Clerk shall receive all objections to creation of paving districts, and other street improvements. He or she shall receive the claims of any person against the city, and in the event that the claim is disallowed in part, or in whole, the City Clerk shall notify such claimant, or his or her agent, or attorney, by letter within five (5) days after the disallowance, and the City Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.
- (F) The City Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to Sections 84-1201 thru 84-1227; provided that 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. RS 17-605*)

§1-203.01 **APPOINTED OFFICIALS; DEPUTY CITY CLERK.** The Deputy City Clerk shall assume the duties of the City Clerk in the City Clerk's absence.

§1-204 **CITY TREASURER.**

- (A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports, and he or she shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her shall be filed with his or her account in the City Clerk's office. If the treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the governing body, the mayor in a city of the second class may use this failure as cause to remove the treasurer from office. The office shall be declared vacant, and the City Council shall fill the vacancy by appointment until the next election for municipal officers. (*Neb. RS 17-606*)
- (B) (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215. (*Neb. RS 77-2201*)
- (2) The City Treasurer shall keep a warrant register in the form required by Neb. RS 77-2202.

- (3) The City Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office. (*Neb. RS 77-2209*)
 - (4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (*Neb. RS 77-2210*)
- (C) (1) The City Treasurer shall prepare and publish annually within 60 days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. (*Neb. RS 19-1101*)
- (2) Publication shall be made in one legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the City is located. (*Neb. RS 19-1103*)
- (D) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid" by the City Treasurer, with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

§1-205 **APPOINTED OFFICIALS; CITY ATTORNEY.** The City Attorney is the city's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the city. When requested by the City Council, he or she shall attend meetings of the City Council, and shall advise any city officials in all matters of law in which the interests of the city may be involved. He or she shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the city. He or she shall examine all bonds, contracts, and documents on which the City Council will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend, and prosecute violations of the city ordinances when directed to do so by the City Council. Without direction, he or she shall appear and prosecute all cases for violation of the city ordinances that have been appealed to and are pending in any higher court. He or she shall also examine, when requested to do so by the City

Council, the ordinance records and advise and assist the City Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be valid, and subsisting local laws in so far as their passage and approval are concerned. The City Council shall have the right to compensate the City Attorney for legal services on such terms as the City Council and The City Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the city. (*Neb. RS 17-610*)

§1-206 **APPOINTED OFFICIALS; CITY PHYSICIAN.** The City Physician shall be a member of the Board of Health of the city, and perform the duties devolving upon him or her as the medical advisor of the said board. In all injuries where a liability may be asserted against the city, the City Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He or she shall then report the results of his investigation with the name of the party injured, and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon, and enter all premises, buildings, or other structures in the city. He or she shall perform such other duties as may be required of him by the laws of the State of Nebraska, and the ordinances of the city. When ordered to do so by the City Council he shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the City Council. The City Physician shall receive as compensation for his services such sum as the Governing Body may from time to time set. He or she shall receive no compensation for his or her services as a member of the Municipal Board of Health. (*Neb. RS 17-121*)

§1-207 **APPOINTED OFFICIALS; CITY POLICE CHIEF.** The City Police Chief shall direct the police work of the city and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector, Quarantine Officer and Secretary to the Board of Health. He or she is a working policeman and shall perform all the duties required of such 2policemen. He or she shall file the necessary complaints in cases arising out of violations of City Ordinances, and shall make all necessary reports required by the City Ordinances, or the laws of the State of Nebraska. (*Neb. RS 17-107, 17-121*)

§1-208 **APPOINTED OFFICIALS; CITY POLICEMEN.** The City Police, whether regular, or special shall have the power to arrest all offenders against the laws of the State of Nebraska, or the city, by day or by night, and keep the said offenders in the city jail, or some other place to prevent their escape until trial can be held before the proper official of the State of Nebraska, or the city. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every city police officer shall be expected to be conversant and knowledgeable with the city and state laws and no law enforcement official shall have any interest in any establishment having a liquor license. City police officers shall have the duty to file such

complaints and reports as may be required by the city ordinances, and the laws of the State of Nebraska. Any city police officer who shall willfully fail, neglect, or refuse to make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the City Council to retain any City Policeman in that position after he or she shall have been duly convicted of the willful violation of any law of the country, the state, or any ordinance of the city, except minor traffic violations. It shall be the duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners mentioned above shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the city police by the city. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his badge to the Police Chief. The City Council may from time to time provide the city police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (Neb. RS 17-118, 17-124)

§1-209 **APPOINTED OFFICIALS; CITY FIRE CHIEF.** The City Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He or she shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his or her jurisdiction. He or she shall, on or before the first (1st) day in April and October of each year, cause the secretary to file with the City Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He or she shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers. (Neb. RS 17-147, 81-506)

§1-210 **APPOINTED OFFICIALS; CITY STREET SUPERINTENDENT.** The City Street Superintendent shall have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the city, and shall perform such other duties as the council may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at least once a year, make a detailed report to the City Council on the condition of the streets, sidewalks, culverts, alleys, and bridges of the city, and shall direct their attention to such improvements, repairs, extensions, and

additions as he may believe are needed to maintain a satisfactory street system in the city along with an estimate of the cost thereof. He shall assume such other duties as the City Council may direct. (*Neb. RS 17-119*)

§1-211 APPOINTED OFFICIALS; CITY ZONING ADMINISTRATOR. The City Zoning Administrator shall perform all the duties specified in the Zoning and Sub-division regulations adopted by the Mayor and Council.

§1-212 APPOINTED OFFICIALS; CITY PARK AND RECREATION SUPERINTENDENT. The City Park and Recreation Superintendent shall be responsible for the management, care and use of the municipal auditorium, all City Park areas, the David City Aquatic Center, and other recreation areas under the oversight of the City of David City. He or she shall carry out his duties within the policies and guidelines set forth by the City Council and shall inform the Council of problems with regard to the operations that the city should address. He or she shall see to the renting of the facilities and make weekly reports to the City Treasurer concerning the amounts due and the parties owing the City. All funds collected by him or her shall be turned over to the Treasurer on a weekly basis together with a complete accounting thereof.

§1-213 APPOINTED OFFICIALS; ZONING ADMINISTRATOR. The title of Zoning Administrator of the City of David City, Nebraska, is hereby established. Such employee will be appointed by the Mayor with the approval of a majority of the City Council and may be removed at any time by the Mayor or a majority of the Council. Top priority will be working on zoning permits followed by subdivision regulations and infrastructure demands. Responsible for updating the City's General Plan, working on subdivision regulations, and any other type of infrastructure demands deemed worthy of attention. If he/she has finished all the above mentioned duties for the given week or month, he/she may then work on updating the city's general plan.

Works closely with and reports to the City Council and the City Administrator.

Will work a maximum of 15 hours per week or 60 hours per month. Hours of work will be centered from the City Office building; he/she will also make themselves available to the public when in the office.

Required to attend all Planning Commission and Board of Zoning Adjustment Meetings. He/she will also be required to attend city council meetings as directed by the council.

§1-213 APPOINTED OFFICIALS; SPECIAL BUILDING INSPECTOR. The governing body may employ a special building inspector to conduct specific building inspections in accordance with the Property Maintenance Code. The special building inspector shall make a record of his/her inspections and all other work completed on behalf of the city. All records of the special building inspector shall be public records, which shall belong to the city. (*Ordinance #1120 1/13/10*)

Article 3. Bonds and Oath

§1-301 **BONDS; FORM.** The City Council may require from all officers and servants, elected or appointed, bonds and security for the faithful performance of the Officials bonds of their duty. 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 that the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official. All official bonds of the municipal officials shall be executed by the principal named in those bonds and by at least 2 sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company, provided that no municipal official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in this state shall be eligible for suretyship on the bond of an official of the city. All these bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of that principal and shall inure to the benefit of the city and any persons who may be injured by a breach of the conditions of the bonds. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on that instrument by the Mayor and City Clerk pursuant to the approval of the City Council. The premium on any official bond required to be given may be paid out of the general fund or other proper municipal fund, upon a resolution to that effect by the City Council at the beginning of any municipal year. All official bonds, meeting the conditions herein, shall be filed with the City Clerk for his or her official records, and it shall be the duty of the City Clerk to furnish a certified copy of any bond so filed upon the payment of a fee, which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer of the city, in the opinion of the City Council, become insufficient, the City Council may, by resolution, fix a reasonable time within which that officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by that failure, refusal, or neglect, become vacant, and it shall be the duty of the City Council to appoint a competent and qualified person to fill the office. Any official who is re-elected to office shall be required to file a new bond after each election. *(Neb. RS 11-103 thru 11-118, 17-604)*

§1-302 **OATH OF OFFICE; MUNICIPAL 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 ofaccording 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, not become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence. So help me God." (*Neb. RS 11-101*)

§1-303 **OATH; AFFIRMATION; EFFECT.** Whenever an oath is required by Section 1-302, the affirmation of a person conscientiously scrupulous of taking an oath shall have the same effect. (*Neb. RS 11-101.03*)

Article 4. Corporate Seal

§1-401 **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 of City Clerk, City of David City, Butler County, 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 countersigned by the City Clerk. (*Neb. RS 17-502*)

Article 5. Meetings

§1-501 **MEETINGS; PUBLIC.** All meetings of public bodies shall be held in the building in which the City Council usually holds meetings unless the notice required by this section designates some other public building or specified place. Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. If a public body has not designated a method, the Mayor shall designate the method. The notice shall be transmitted to all members of the public body and to the public. The notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the City Clerk during normal business hours. 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 public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting. 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 then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the City Council present or absent at each convened meeting. The minutes of the City Council shall be a public record open to inspection by the public upon request at any reasonable time 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. RS 84-1408, 84-1409, 84-1411, 84-1413*)

§1-502 **MEETINGS; PUBLIC PARTICIPATION.** The City shall follow State Statutes Sections 84-1407 to 84-1414 which shall be known and cited as the Open Meetings Act as follows:

84-1408 Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

84-1409 Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of

Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions.

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rule making authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Policy Cabinet created in section 81-3009;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

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

84-1410 (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. **Closed sessions may be held for, but shall not be limited to, such reasons as:**

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body; devices; misconduct; or

(b) Discussion regarding deployment of security personnel or

(c) Investigative proceedings regarding allegations of criminal

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

(2) The vote to hold a closed session shall be taken in open session. The entire motion, 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. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. 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 minute's motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) 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 (a) the protection of the public interest or (b) 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.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

84-1411 (1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours.

Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than fifty counties in this state, or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

- (a) Reasonable advance publicized notice is given;
 - (b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;
 - (c) At least one copy of all documents being considered is available to the public at each site of the video conference or telephone conference; governing body is present at each site of the video conference or telephone conference; and committee's, or governing body's meetings in a calendar year are held by video conference or telephone conference; electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.
 - (d) At least one member of the state entity, advisory committee, or
 - (e) No more than one-half of the state entity's, advisory
- Videoconferencing, telephone conferencing, or conferencing by other
- (3) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:
- (a) The territory represented by the member public agencies of the entity or pool covers more than one county; each telephone conference location at which a member of the entity's or pool's governing body will be present; are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;
 - (b) Reasonable advance publicized notice is given which identifies
 - (c) All telephone conference meeting sites identified in the notice
 - (d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public

comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than one hour; and

(h) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) 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 any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

84-1412 (1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, 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.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the

anticipated audience.

(5) 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.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year is held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other in-state locations for a video conference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(8) Public bodies shall make available at the meeting or the in-state location for a telephone conference call or video conference, 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. Public bodies 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.

84-1413 Meetings; minutes; roll call vote; secret ballot; when.

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

(2) 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 a municipality which utilizes an electronic voting device which allows the yeas and nays of each member of the city council or village board to be readily seen by the public.

(3) 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.

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

(5) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

84-1414 (1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

§1-503 **MEETINGS; NOTICE TO PUBLIC.** The City Council of David City, Nebraska shall give reasonable advance publicized notice of the time and place of each meeting by placing in The Banner Press, a legal weekly newspaper, such notice, six (6) days prior to meeting date. Such notice shall be transmitted to all members of the City Council of David City, Nebraska and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice, or a statement that the agenda, which shall be kept continually current, shall be available for public inspection at the principle office of the City Council of David City, Nebraska during normal business hours.

§1-504 **MEETINGS; NOTICE TO NEWS MEDIA.** The City Clerk, Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance

notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. (*Neb. RS 84-1411*)

§1-505

MEETINGS; EMERGENCY MEETINGS. When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency, and notice of the emergency meeting shall be given in advance to the news media.

§1-506 **MEETINGS; PROCEDURE FOR CITY CLERK.** The City Clerk of the City of David City, Nebraska shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matter discussed.

- (1) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the City Council of David City, Nebraska, in open session, and the record shall state how each member voted, or if the member was absent or not voting.
- (2) The vote to elect leadership within the City Council of David City, Nebraska may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
- (3) The minutes shall be public records and open to public inspection during normal hours.
- (4) Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier. (*Neb. RS 84-1413*)

§1-507 **MEETINGS; ORGANIZATIONAL.** The newly elected Council shall convene at the regular place of meeting in the City on the first (1st) regular meeting in December of each year in which a Municipal election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council". The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first (1st) regular meeting in December following his election. All appointive officers shall qualify within two (2) weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the Municipality and to perform faithfully and impartially the duties of his office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon.

§1-508 **MEETINGS; REGULAR MEETINGS.** The meetings of the Governing Body shall be held in the City Council meeting room of the City Office Building. Regular meetings shall be held on the second (2nd) Wednesday of each month at the hour of seven (7:00) o'clock p.m.

At all meetings of the Council a majority of the Council members shall constitute a quorum to do business.

§1-509 **MEETINGS; SPECIAL MEETINGS.** Special meetings may be called by the Mayor, or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the 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. At the hour appointed for the meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. (*Neb. RS 17-106*)

§1-510 **MEETINGS; RULES AND REGULATIONS.** The rules of parliamentary practice comprised in Robert's Rules of Order may guide City Council meetings in cases to which they are applicable, to the extent that they are not inconsistent with this Article or generally accepted practices of the City Council.

Article 6. Ordinances, Resolutions, and Motions

- 1-601** **ORDINANCES; GRANT OF POWER.** The Governing Body shall have the responsibility of making all ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and security. (*Neb. RS 17-505; 2004 Supp.*)
- 1-602** **RESOLUTIONS AND MOTIONS; PROCEDURE.** 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 (1) time in the presence and hearing of a majority of the members elected to the City Council. 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 City 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.
- 1-603** **ORDINANCES; STYLE.** The style of all Municipal ordinances shall be: "Be it ordained by the Mayor and Council of the City of David City, Nebraska."
(*Neb. RS 17-613*)
- 1-604** **ORDINANCES; TITLE.** No ordinance shall contain a subject not clearly expressed in its title. (*Neb. RS 17-614*)
- 1-605** **ORDINANCES; PASSAGE.** Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of all members elected to the Governing Body. Ordinances of a general or permanent nature shall be read by the title on three (3) different days unless three-fourths (3/4) of the Governing Body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths (3/4) of the Council may require any ordinance to be read in full before final passage under either process. (*Neb. RS 17-614; 2005 Supp.*)
- 1-606** **ORDINANCES; PUBLICATION.** All ordinances of a general nature before they take effect, shall be published within fifteen (15) days after they are passed, (1) in some newspaper published in the City, but if no paper is published in the City, then by posting a written or printed copy thereof in each of three (3) public places in the City, or (2) by publishing the same in book or pamphlet form, such book or pamphlet form shall be available for inspection at the City Office. (*Neb. RS 17-613*)
- 1-607** **ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING.** The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Municipality from the City Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted. (*Neb. RS 17-613, 18-131*)

- 1-608** **ORDINANCES; 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 (3) of the most public places in the Municipality. Such emergency notice shall recite the emergency and be passed by a three-fourths (3/4) vote of the Council, and entered upon the City Clerk's minutes. (*Neb. RS 17-613*)
- 1-609** **ORDINANCES; AMENDMENTS AND REVISIONS.** No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed. (*Neb. RS 17-614*)

Article 7. Elections

1-701 **ELECTIONS; GENERALLY.**

- (A) All city issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if city offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (*Neb. RS 32-556*)
- (B) When the city holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the city shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the city. (*Neb. RS 32-404*)

1-702 **ELECTIONS; PRIMARY ELECTION, NUMBER OF CANDIDATES FILING.** If the names of candidates properly filed for nomination at the primary election for officers of the city do not exceed two (2) candidates for each position to be filled, any such candidates shall be declared nominated and their names shall not appear on any primary election ballots. (*Neb. RS 32-811*)

1-703 **PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.**

- (A) (1) Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for an office by filing petitions as prescribed in this section and Neb. RS 32-621.
- (2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of Neb. RS 32-625 and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in Neb. RS 32-615. (*Neb. RS 32-616*)
- (B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and those circulating the petition shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (*Neb. RS 32-617*)

- (C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the municipality, as appropriate.
- (2) The number of signatures of registered voters needed to place the name of a candidate upon the ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality, not to exceed 2000. (*Neb. RS 32-618*)

1-704 **ELECTIONS; TIE VOTES.** If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for the same nomination for the same city office, the county canvassing board shall, in the presence of the candidates or their representatives, determine by lot which of the candidates shall be nominated. The county clerk shall notify such candidates by certified mail to appear at this or her office on a given day and hour to determine the same before the county canvassing board. The county clerk shall make a certificate of nomination for the person so nominated and shall cause such certificate to be delivered to the person entitled thereto.

1-705 **ELECTIONS; FILING FEE.**

- (A) Except as provided in divisions (C) or (D) of this section, a filing fee shall be paid to the City Treasurer by or on behalf of each candidate prior to filing for office. The filing fee shall be a sum equal to 1% of the annual salary the candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate. The fee shall be placed in the general fund of the city. No candidate filing forms shall be filed until the proper receipt showing payment of the filing fee is presented to the filing officer.
- (B) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the County Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.
- (C) No filing fee shall be required on any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.
- (D) (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.

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

PAUPER. A person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except:

1. Real property used as a home;
2. Household goods of a moderate value used in the home; and
3. Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

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

1-706 **ELECTIONS; NOTICE.** The notice of election required to be published by the County Clerk no less than 40 days prior to an election shall serve as the notice requirement for all city elections which are held in conjunction with the statewide primary or general election. (*Neb. RS 32-802*)

1-707 **ELECTIONS; SPECIAL ELECTIONS.**

- (A) (1) Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election shall be subject to division (B) of this section.
- (2) In lieu of submitting the issue at a special election, the city may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the City Clerk to the County Clerk by March 1 for the primary election and by September 1 for the general election.
- (3) After the County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The County Clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the

submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council. (*Neb. RS 32-559*)

- (B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. (*Neb. RS 32-405*)

1-708 **ELECTIONS; ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.** No later than January 5 of each even-numbered year, the City Council shall certify to the County Clerk, on forms prescribed by that official, the name of the city, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (*Neb. RS 32-404*)

1-709 **ELECTIONS; OFFICERS; TERMS; QUALIFICATIONS.**

- (A) Elected officers of the city shall be nominated at the statewide primary election and elected at the statewide general election. All elected officers of the city shall serve for terms of 4 years or until their successors are elected and qualified. (*Neb. RS 32-533*)
- (B) The Mayor and Council members shall be residents and registered voters of the city.
- (C) The members of the City Council shall be elected from the city by wards, as defined in § 1-710 of this code, unless the registered voters of the city vote to elect its Council members at large. Each ward of the city shall have 2 Council members elected in the manner provided in the Election Act. The term of office shall begin on the first regular meeting of the City Council in December following the statewide general election. No person shall be eligible to the office of Council member who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter. (*Neb. RS 32-554*)

1-710 **ELECTIONS; PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.** All elective city offices shall be nominated and elected on a nonpartisan basis unless the City Council provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (*Neb. RS 32-557*)

1-711 ELECTIONS; REGISTERED VOTERS; QUALIFICATIONS.

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

REGISTERED VOTER. An elector who has a current voter registration record on file with the County Clerk. (*Neb. RS 32-115*)

- (B) All registered voters residing within the corporate limits of the city on or before election day shall be entitled to vote at all city elections. (*Neb. RS 17-602, 32-110*)

1-712 ELECTIONS; RECALL PROCEDURE.

- (A) Any or all of the elected officials of the city may be removed from office by recall pursuant to Neb. RS 32-1301 to 32-1309. Those circulating a petition shall conform to the requirements of Neb. RS 32-628, 32-630, and 32-1303. Each petition paper shall conform to the requirements of Neb. RS 32-1304.
- (B) (1) The petition papers shall be procured from the City Clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the 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 Clerk issue initial petition papers to the principal circulator for circulation. The Clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he or 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 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.
- (2) The Clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The 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 Clerk may distribute such petitions to registered voters residing in the district who may act as circulators of such petitions. For purposes of this section, if the official were elected by ward, district shall mean that ward, and if the official was not elected by ward, district shall mean the city.

- (3) Petition signers shall conform to the requirements of Neb. RS 32-629, 32-630, and 32-1303.
 - (4) A petition demanding that the question of removing the Mayor, a member of the City Council, or another elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition. (*Neb. RS 32-1303*)
- (C)
- (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the Clerk within 30 days after the Clerk issues the initial petition papers to the principal circulator or circulators.
 - (2) Within 15 days after the filing of the petition, the 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 Clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the Clerk for signature verification. If the petition is found to be sufficient, the 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 Clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. (*Neb. RS 32-1305*)
- (D) If the recall petition is found to be sufficient, the 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. RS 32-1306*)
- (E)
- (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (F) of this section.
 - (2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a

recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and state law.

- (3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the City Clerk that he or she does not want a recount.
 - (4) 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.
 - (5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal of any other member of the same governing body during the remainder of his or her term of office. (*Neb. RS 32-1308*)
- (F) No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office. (*Neb. RS 32-1309*)

1-713

ELECTED OFFICIALS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

- (1) The Mayor and members of the Council shall hold no other elective or appointive office or employment with the City.
- (2) For purposes of this section, (a) elective office means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting if a public body created by an act of the Legislature and (b) high elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.
- (3) No candidate for member of the Legislature or an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall be eligible to file as a candidate, to petition

on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be declared a write-in candidate for more than one high elective office to be filled at the same election.

- (4) Except as provided in subsection (5) or (7) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.
- (5) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.
- (6) Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.
- (7) No person serving in a high elective office shall simultaneously serve in any other high elective office.
- (8) Notwithstanding subsections (5) through (7) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed. (*Neb. RS 17-108.02, 32-109, 32-603, 32-604*)

1-714

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

Article 8. Fiscal Management

- 1-801** **FISCAL MANAGEMENT; 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. RS 17-701*)
- 1-802** **FISCAL MANAGEMENT; PUBLIC FUNDS DEFINED.** For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- PUBLIC FUNDS.*** All money, including non-tax money, used in the operation and functions of governing bodies. If a municipality has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered ***PUBLIC FUNDS***, and ***PUBLIC FUNDS*** shall not include amounts awarded as prizes. (*Neb. RS 13-503(7)*)
- 1-803** **FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET.**
- (A) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the city. Except as provided in division (B) of this section, these expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. These expenditures shall be charged against the appropriations for each individual fund or purpose in the budget when adopted. (*Neb. RS 13-509.01*)
- (B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the city to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the city in excess of that authorized by any other statutory provision. (*Neb. RS 13-509.02*)
- 1-804** **FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.**
- (A) The Governing Body shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

- (1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;
 - (2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
 - (3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;
 - (4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose of paying the principal or interest on bonds issued by the Governing Body and (b) for all other purposes;
 - (5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the Governing Body; and
 - (6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the Governing Body as provided in the Municipal Proprietary Function Act.
- (B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the municipality as well as any funds held by the County Treasurer for the municipality and shall be accurately stated on the proposed budget statement.
- (C) The municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources. (*Neb. RS 13-504*)

- (D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation for personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (*Neb. RS 13-505*)

1-805 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

- (A) The City Council shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the municipality.
- (B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately (1) the amount to be applied to the payment of principal or interest on bonds issued by the City Council and (2) the amount to be received for all other purposes.
- (C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes. (*Neb. RS 13-506*)
- (D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (*Neb. RS 13-507*)

1-806 FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

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

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

- (2) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent (5%) of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than one percent (1%) greater or lesser than the amount determined in the proposed budget statement.
- (3) The City Council may designate one of its members to perform any duty or responsibility required of such body by this section. (*Neb. RS 13-508*)

1-807 **FISCAL MANAGEMENT; BUDGET PROCEDURE.** The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation.

1-808 **FISCAL MANAGEMENT; APPROPRIATION BILL.** 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 those sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (*Neb. RS 17-706*)

1-809 **FISCAL MANAGEMENT; 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 (1) year the amount provided for that improvement in the adopted budget statement. (*Neb. RS 17-708*)

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

- (1) Except as provided in section 18-412.01 RS Neb. for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the city, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over twenty thousand dollars (\$20,000.00) shall be made unless it is first approved by the City Council
- (2) Except as provided in section 18-412.01 RS Neb., before the City Council makes any contract in excess of twenty thousand dollars (\$20,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system,

bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the Governing Body. In advertising for bids as provided in subsections (3) and (5) of this section, the City Council may publish the amount of the estimate.

- (3) Advertisements for bids shall be required for any contract costing over twenty thousand dollars (\$20,000.00) entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.
- (4) A Municipal Electric Utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Twenty thousand dollars (\$20,000.00) or less; (b) forty thousand dollars (\$40,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of one million dollars (\$1,000,000.00); (c) sixty thousand dollars (\$60,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of five million dollar's (\$5,000,000.00); or (d) eighty thousand dollars (\$80,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of ten million dollars (\$10,000,000.00).
- (5) The advertisement provided for in subsection (3) of this section shall be published at least seven (7) days prior to the bid closing in a legal newspaper published in or of general circulation in the city and, if there is no legal newspaper published in or of general circulation in the city, then in some newspaper of general circulation published in the county in which the city is located, and if there is no legal newspaper of general circulation published in the county in which the city is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the city or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three (3) public places in the city at least seven (7) days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling /or immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 RS Neb. when adopted by a three-fourths (3/4) vote of the City Council and entered of record.
- (6) If, after advertising for bids as provided in this section, the City Council receives fewer than two (2) bids on a contract or if the bids received by the City Council contain a price which exceeds the estimated cost, the Mayor and City Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

- (7) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing city, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.
- (8) Any Municipal bidding procedure may be waived by the City Council (a) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the State bidding procedure in sections 81-145 to 81-162 RS Neb. or (b) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503 RS Neb.
- (9) Notwithstanding any other provisions of law or a home rule charter, a city which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the material division of the Department of Administrative Services. For purposes of this subsection:
 - (a) Personal property includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and
 - (b) Purchasing or purchase means the obtaining of personal property by sale, lease, or other contractual means. (*Neb. RS 17-568.01, 17-568.02, 18-1756*)

1-811 **FISCAL MANAGEMENT; ANNUAL AUDIT; FINANCIAL STATEMENTS.** 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. This audit shall be made on a cash or accrual method at the discretion of the City Council. This audit shall be completed, and the annual audit report made not later than six (6) months after the close of the fiscal year. The accountant making the audit shall submit not less than three (3) copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of those audits shall appear separately in the annual audit report, and those 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. Two (2) 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, and will at all times thereafter, be open for public inspection. One (1) 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. RS 13-606*)

1-812 **FISCAL MANAGEMENT; CLAIMS.**

- (A) 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 eighty-five (85%) percent 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 unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn, provided that in the event there exist obligated funds from the federal or state government for the general purpose of that warrant, then that warrant may be drawn in excess of eighty-five (85%) percent, but not more than one hundred (100%) percent of the current levy for the purpose for which said warrant is drawn.
- (B) 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 payable, and for what particular object. 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 is drawn and the amount already expended of that fund. (*Neb. RS 17-711, 17-714, 17-715*)

1-813 REVISION OF BUDGET.

- (A) Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the City Council that:
 - (1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
 - (2) The budget adopted violated Neb. RS 13-518 to 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 to 13-522; or
 - (3) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.
- (B) Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the municipality. Such published notice shall set forth:

- (1)The time and place of the hearing;
 - (2)The amount in dollars of additional or reduced money required and for what purpose;
 - (3)A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
 - (4)A copy of the summary of the originally adopted budget previously published; and
 - (5)A copy of the summary of the proposed revised budget.
- (C) At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.
- (D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the City Council shall file with the County Clerk of the county or counties in which such City Council is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefore.
- (E) Within 30 days after the adoption of the budget under Neb. RS 13-506, a City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, a City Council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk of the county or counties in which such City Council is located and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget. (Neb. RS 13-511)

1-814

FISCAL MANAGEMENT; PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

- (A) (1) Pursuant to the Municipal Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its municipal budget statement prepared pursuant to the Nebraska Budget Act.
- (2)For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PROPRIETARY FUNCTION. A water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the city. (*Neb. RS 18-2803(5)*)

- (B) (1) The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the city's general fund shall have the same fiscal year as the city.

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

SUBSIDIZATION. The costs of operation of a propriety function are regularly financed by appropriations from the city's general fund in excess of the amount paid by the city to the proprietary function for actual service or services received. (*Neb. RS 18-2804*)

- (C) (1) If the city does not include its proprietary functions in its municipal budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the State Auditor and filed with the City Clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:
- (a) For the immediate 2 prior fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
 - (b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
 - (c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
 - (d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

(2) The statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years. (*Neb. RS 18-2805*)

- (D) (1) After the proposed proprietary budget statement is filed with the City Clerk, the City Council shall conduct a public hearing on the statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the City Clerk during normal business hours shall be published at least 5 days prior to the hearing in a newspaper of general circulation within the City Council's jurisdiction or by mailing each resident within the City Council's jurisdiction.
- (2) After the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of the hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the City Clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. (*Neb. RS 18-2806*)
- (E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement and the previous fiscal year and the actual expenditures and revenue for that fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the City Clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for that fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. (*Neb. RS 18-2807*)
- (F) Any income from a proprietary function which is transferred to the general fund of the city shall be shown as a source of revenue in the municipal budget statement created pursuant to the Nebraska Budget Act. (*Neb. RS 18-2808*)

1-815 **FISCAL MANAGEMENT; TRANSFER OF FUNDS.** The City Council may, 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, 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 all such hearings. Notice of a place, and time for the said hearing

shall be published at least five (5) 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 setting forth 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. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the City Council, the City Council shall file with the County Clerk and the Nebraska State Auditor a copy of the supplemental budget, and shall certify the amount of additional tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants," and shall be repaid during the next fiscal year from funds derived from taxes levied there for. (*Neb RS Ref. 13-510, 13-511*)

1-816 FISCAL MANAGEMENT; COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

- (A) The city shall have the authority to collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure.
- (B) If the city elects to collect its special assessments, notice that special assessments are due shall be mailed or otherwise delivered to the last know address of the person against whom those special assessments are assessed or to the lending institution or other party responsible for paying those special assessments. Failure to receive the notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.
- (C) A city that elects to collect its special assessments shall:
 - (1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and
 - (2) File a release of assessment upon final payment of each assessment with the Register of Deeds. (*Neb. RS 18-1216*)

1-817 FISCAL MANAGEMENT; 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 this money shall be used for no other purpose whatever, unless to reimburse the city for money expended for any such improvement. (*Neb. RS 17-710*)

1-818 FISCAL MANAGEMENT; SINKING FUNDS. 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 taxable value of all taxable property within the city for a term not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of

the city, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment, or repair, not including maintenance, of the approved uses as authorized by state law. To initiate the 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 a clear description of the improvement, the estimated cost, the amount of the annual levy, over a definite period of years (not exceeding 10 years) required to pay that cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the proposition shall be published in its entirety three (3) times on successive weeks before the day of the election in a legal newspaper of general circulation in the 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 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 sixty (60%) percent of the qualified electors of the city voting at a general election favoring such a change in the use of the sinking fund. (*Neb. RS 19-1303 , 77-2337, 77-2339*)

1-819 **FISCAL MANAGEMENT; GENERAL FUND.** All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the General Fund.

1-820 **DEPOSIT OF FUNDS.**

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

- (B) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The

City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank, 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. (Neb. RS 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. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 77-2362)

1-821 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 to 16-716. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 17-720)

- 1-822 FISCAL MANAGEMENT; INVESTMENT OF FUNDS.** Whenever a city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in the 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. RS 77-2341(1), 17-608, 17-609)

- §1-823 FISCAL MANAGEMENT; 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 City Council shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. RS 18-1801 through 18-1805, 10-606 through 10-614, 10-201 through 10-209)

1-824 FISCAL MANAGEMENT; DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

- (A) The city may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the city.
- (B) No debt owed pursuant to division (A) of this section may be assigned to a collection agency unless:
 - (1) There has been an attempt to advise the debtor by first class mail, postage prepaid, at the last known address of the debtor:
 - (a) Of the existence of the debt; and
 - (b) That the debt may be assigned to a collection agency for collection if the debt is not paid.
- (C) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.
- (D) For purposes of this section, debt shall include all delinquent fees or payment except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service. (*Neb. RS 45-623*)

1-825 FISCAL MANAGEMENT; CREDIT CARDS AND ELECTRONIC FUNDS TRANSFERS; AUTHORITY TO ACCEPT.

- (A) The City Council may authorize city officials to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.
- (B) The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the city official.
- (C) With respect to a facility which it operates in a proprietary capacity, the City Council may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

- (D) The city official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing that service.
- (E) The City Council may choose to participate in the state contract for these payment services. If the City Council chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of these services.
- (F) When authorizing acceptance of credit card or charge card payments, the City Council shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the city, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the city by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the city official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.
- (G) For purposes of this section, electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (Neb. RS 13-609)

1-826

FISCAL MANAGEMENT; ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.

- (A) For any fiscal year, the City Council may decide to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. RS 77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. RS 19-1309 to be levied upon the taxable valuation of all taxable property in the city. (Neb. RS 19-1309)
- (B) (1) An amount of the all-purpose levy shall be certified as a single amount for general fund purposes. (Neb. RS 19-1312)

- (2) If the all-purpose levy method is followed in city financing, the City Council shall allocate the amount raised to the several departments of the city in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best.
- (C) The city shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon this method in succeeding fiscal years. (*Neb. RS 19-1311*)
- (D) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the city may be made by the city in addition to the all-purpose levy.

1-827

FISCAL MANAGEMENT; PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

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

the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (C).

- (2) On or before August 1, all political subdivisions subject to municipal levy authority under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).
 - (3) (a) The City Council shall:
 - (i) Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
 - (ii) Forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.
 - (b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue. (Neb. RS 77-3443)
- (C)
- (1) The city may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.
 - (2) The City Council may call for the submission of the issue to the voters:
 - (a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or
 - (b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5 % of the registered voters residing in the city.
 - (3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the

excess levy authority. The excess levy authority shall not have a duration greater than five 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. RS 32-802 shall be no later than 20 days prior to the election.

- (4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 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. RS 32-628 through 32-631.
- (5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8), whichever is earliest.
- (6) The City Council may pass no more than one resolution calling for an election pursuant to this division (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.
- (7) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (A), but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax.
- (8)
 - (a) The city may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.
 - (b) The City Council may call for the submission of the issue to the voters:
 - (i) By passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city;
or

- (ii) Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5 % of the registered voters residing in the city.
- (c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five 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. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. RS 77-3444)

1-828 **FISCAL MANAGEMENT; PROPERTY TAX; CERTIFICATION OF AMOUNT.** The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the city which the city requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to section 77-3442 RS Neb., the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in section 17-702 RS Neb. (Neb. RS 17-702)

1-829 **FISCAL MANAGEMENT; PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.**

- (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. RS 77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality 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 sitting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply.
- (D) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606. (*Neb. RS 77-1601.02*)

1-830

FISCAL MANAGEMENT; MOTOR VEHICLE TAX. The City Council may levy a tax on all motor vehicles owned or used in the city, which tax shall be paid to the County Treasurer of the county in which the city is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These taxes shall be credited by the County Treasurer to the road fund of the city. These funds shall be used by the city for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, or for the amortization of bonded indebtedness when created for those purposes. (*Neb. RS 18-1214, 60-301*)

Article 9. Compensation

1-901 COMPENSATION; MUNICIPAL OFFICIALS.

- (A) The officers and employees of the city shall receive such compensation as the Mayor and Council shall fix by ordinance. (*Neb. RS 17-108*)
- (B) No officer shall receive any pay or perquisites from the city other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the city. (*Neb. RS 17-611*)
- (C) The emoluments of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices, except that when there are officers elected to the Council, or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected if during the same time the emoluments thereof were increased. (*Neb. RS 17-612*)

1-902 COMPENSATION; CONFLICT OF INTEREST INVOLVING CONTRACTS.

- (A) (1) **BUSINESS ASSOCIATION** means a business:
 - (a) In which the individual is a partner, limited liability company member, director, or officer; or
 - (b) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5 % equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker. (*Neb. RS 49-1408*)
- (2) **IMMEDIATE FAMILY** means a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes. (*Neb. RS 49-1425*)

(3) *OFFICER* means:

- (a) A member of any board or commission of the municipality which spends and administers its own funds, who is dealing with a contract made by such board or commission; or
- (b) Any elected municipal official.

Officer does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

- (B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted thereby.
- (2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse, or child:
 - (a) Has a business association with the business involved in the contract; or
 - (b) Will receive a direct pecuniary fee or commission as a result of the contract.
- (C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:
 - (1) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;
 - (2) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

- (3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.
- (D) An officer who (1) has no business association with the business involved in the contract or (2) will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.
- (E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5 % of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.
- (F) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to (1) all employees or (2) all employees within a classification and do not single out his or her parent, spouse, or child for special action.
- (G) Neb. RS 49-14,102 shall not apply to contracts covered by this section. (*Neb. RS 49-14,103.01*)
- (H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (a) through (e) of this division (H)(1) about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. 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:
- (a) Names of the contracting parties;
 - (b) Nature of the interest of the officer in question;
 - (c) Date that the contract was approved by the governing body;
 - (d) Amount of the contract; and
 - (e) Basic terms of the contract.
- (2) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept. (*Neb. RS 49-14,103.02*)
- (I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. (*Neb. RS 49-14,103.03*)

- (J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest. (*Neb. RS 49-14,103.05*)
- (K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of such body may have an interest. (*Neb. RS 49-14,103.06*) (*Neb. RS 18-305 through 18-312*)

Article 10. Intergovernmental Risk Management

1-1001 INTERGOVERNMENTAL RISK MANAGEMENT

- (A) **PUBLIC AGENCY** means any county, city, village, school district, public power district, rural fire district, or other political subdivision of this state, the State of Nebraska, the University of Nebraska, and any corporation whose primary function is to act as an instrumentality or agency of the State of Nebraska. (*Neb. RS 44-4303*)
- (B) The City Council and any one or more public agencies may make and execute an agreement providing for joint and cooperative action in accordance with the Intergovernmental Risk Management Act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:
- (1) General liability;
 - (2) Damage, destruction, or loss of real or personal property, including, but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
 - (3) Errors and omissions liability; and
 - (4) Workers' compensation liability.
- (C) The City Council and any one or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action in accordance with the act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to provide health, dental, accident, and life insurance to member's employees and officers. (*Neb. RS 44-4304*)

Article 11. Penal Provision

1-1101 VIOLATION; GENERAL PENALTY.

- (A) Any person who violates any of the provisions of this municipal code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.
- (B) (1) Whenever a nuisance exists as defined in Chapter 4 of this code, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.
- (2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Neb. RS 18-1720, 18-1722, 17-505*)