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CHAPTER 1 – CIVIL ADMINISTRATION

Article 1 – City Administration

SECTION 1-101: CORPORATE EXISTENCE

Prior to 1990, the population of the City of Indianola was in excess of 800 persons and the City was classified by statute as a second class city. The 1990 census, enumeration, and return taken by the United States and the State of Nebraska reflected a decrease in population so that Indianola had a population of fewer than 800 but more than 100 inhabitants. The mayor and City Council decided that Indianola should remain a city of the second class. Pursuant to Ord. No. 362 passed on March 4, 1991, by virtue of the authority vested in it pursuant to Neb. Rev. Stat. §17-310, the City of Indianola remains a city of the second class notwithstanding the decrease in population; and such city shall continue to be governed by the laws of the State of Nebraska applicable to cities of the second class. (Neb. Rev. Stat. §17-101) (Ord. No. 362, 3/4/91)

SECTION 1-102: OFFICIAL CORPORATE SEAL

The official corporate seal of the City shall be kept in the office of the city clerk and may bear the following inscription: "Corporate Seal, City of Indianola, 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. Rev. Stat. §17-502)

SECTION 1-103: BONDS; BLANKET BOND

A. Official bonds of the City shall be in form, joint and several, and shall be made payable to the City in such penalty as the City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no city official while still in his official term of office shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the City. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the City and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until approved by the City Council and all sureties are endorsed in writing on the said instrument by the mayor and city clerk pursuant to the said council approval. The premium on any official bond required to be given may be paid out of the General Fund or other proper city fund upon a reso-

lution to that effect by the City Council at the beginning of any city year.

B. All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required.

C. All official bonds meeting the conditions herein shall be filed with the city clerk for the official records and it shall be his/her duty 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 Council may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond, or additional sureties to the satisfaction and approval of the City Council, then the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election.

(Neb. Rev. Stat. §11-103 thru 11-118, 17-604)

SECTION 1-104: OATH OF OFFICE; CITY OFFICIALS

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

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

(Neb. Rev. Stat. §11-101)

SECTION 1-105: COMPENSATION

The compensation of any elective official of the City shall not be increased or diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the City Council, a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. The official may be rehired after the term of office during which he or she resigned at a greater salary. All salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk. (Neb. Rev. Stat. §17-108.02, 17-612)

SECTION 1-106: SALARIES OF OFFICIALS

The salaries of the elected officials and the other officers and employees of the City shall be fixed by the mayor and the City Council from time to time by ordinance, resolution or motion and shall be available for public inspection at the office of the city clerk.

SECTION 1-107: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

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

B. For purposes of this section:

1. "Elective office" shall mean 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 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 of a public body created by an act of the Legislature; and
2. "High elective office" shall mean 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.

C. 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 Ne-

braska 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.

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

E. 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 only simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

F. Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, 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.

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

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

Article 2 – Elected Officials

SECTION 1-201: CITY COUNCIL; SELECTION AND DUTIES

The members of the City Council shall be elected and serve four-year terms. The council shall be the legislative division of the city 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. Rev. Stat. §17-103, 17-104)

SECTION 1-202: CITY COUNCIL; ORGANIZATION

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

B. To be eligible to serve as a City Council member, a person shall be a resident and a registered voter of the City and shall hold no other employment with the City.

(Neb. Rev. Stat. §17-104, 17-107.01, 19-613) (Am. by Ord. No. 224, 4/5/76)

SECTION 1-203: CITY COUNCIL; PRESIDENT

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

SECTION 1-204: CITY COUNCIL; VACANCY

A. Whenever a vacancy occurs in an elected office of the City, except mayor, notice of said vacancy shall be presented in writing to the City Council at a regular meeting and said notice shall appear as a part of the minutes of such meeting.

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

C. The mayor shall, within two weeks after the regular meeting at which such notice has been presented or upon the death of the incumbent, call a special meeting of the council, at which time the mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term. Upon a majority vote of approval by the council, the vacancy shall be filled.

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

E. The mayor shall cast his or her vote only in case of a tie vote of the City Council. All council members shall cast a ballot for or against each nominee.
(Neb. Rev. Stat. §32-569)

SECTION 1-205: MAYOR; POWERS AND DUTIES

A. A mayor of a city of the second class shall be elected in the manner provided in the Election Act. The mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. The mayor shall be a resident and registered voter of the City. The mayor shall have the general and immediate control over all property and officials, whether elected or appointed, of the City.

B. The mayor shall preside at all meetings of the City Council and may vote when his or her vote shall be decisive and the council is equally divided on any pending matter, legislation, or transaction; he or she shall, for the purpose of such vote, be deemed to be a member of the council.

C. He or she shall sign the city clerk's minutes of all meetings, all resolutions which have been passed and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the mayor may be passed over his or her veto by a two-thirds vote of the council members. However, 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 a signature.

D. The mayor, with the consent of the council, may appoint such officers as shall be required by ordinance or otherwise required by law. Their terms of office shall be as provided in Section 1-501. Such officers may be removed from office by

the mayor. He or she shall, by and with the consent of the council, appoint such a number of regular police officers as may be necessary.

E. The mayor shall, from time to time, communicate to the City Council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the City.

F. The mayor shall have the power, when he or she deems it necessary, to require any officer of the City to exhibit his or her accounts or other papers and to make reports to the council, in writing, touching any subject or matter pertaining to his or her office.

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

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

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

(Neb. Rev. Stat. §17-107, 17-107.01, 17-110 thru 17-117) (Am. by Ord. Nos. 223, 4/5/76; 277, 10/20/80)

SECTION 1-206: MAYOR; VACANCY

Whenever a vacancy occurs in the office of mayor or in case of his or her disability or absence, the president of the council shall exercise the office of mayor until such vacancy is filled or such disability is removed or, in case of temporary absence, until the mayor returns. 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 Neb. Rev. Stat. §32-568. (Neb. Rev. Stat. §17-107)

Article 3 – Meetings

SECTION 1-301: DEFINED

“Meetings” as used in this article shall mean all regular, special, or called meetings of a public body for purposes of briefing, discussion or public business, formation of tentative policy, or the taking of any formal action. (Neb. Rev. Stat. §84-1409(2)) (Ord. No. 226, 4/5/76)

SECTION 1-302: PUBLIC BODY DEFINED

“Public body” as used in this article shall mean: (A) the City Council, (B) all independent boards, commissions, bureaus, committees, councils, subunits, Certificate of Need appeal panels, or any other bodies, now or otherwise pursuant to law, and (C) advisory committees of the bodies listed above. This article shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (Neb. Rev. Stat. §84-1409(1)) (Am. by Ord. No. 387, 10/18/93)

SECTION 1-303: OPEN MEETINGS INFORMATION

The City Council shall make available at least one current copy of the Open Meetings Act, to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information. (Neb. Rev. Stat. §84-1412)

SECTION 1-304: RIGHTS OF PUBLIC

A. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body except for closed meetings called pursuant to Section 1-310 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.

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

C. No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

D. 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. 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.

E. 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 and shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. Rev. Stat. §84-1412) (Ord. No. 226, 4/5/76) (Am. by Ord. No. 387, 10/18/93)

SECTION 1-305: NOTICE; AGENDA; RECORD OF VOTES

A. 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.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a City Council meeting scheduled outside the corporate limits 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.

C. The minutes of the city clerk shall include the record of the manner by which the advance publicized notice was given, 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 council's minutes shall be a public record open to inspection by the public upon request during office hours at the office of the city clerk.

D. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the city clerk shall show how each member voted or that the member was absent and did not vote.

(Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413) (Am. by Ord. Nos. 226, 4/5/76; 387, 10/18/93)

SECTION 1-306: ORGANIZATIONAL MEETING; STANDING COMMITTEES

A. The newly elected council members shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a city election is held immediately after the prior council adjourns and proceed to or-

ganize themselves for the ensuing year. The mayor elected for the new city year shall call the meeting to order. The council shall then proceed to examine the credentials of its members and other elective officers to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required.

B. 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 nominate his or her candidates for appointive offices and 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 regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska and the ordinances of the City and to perform faithfully and impartially the duties of his or her office, said oath to be filed in the office of the city clerk. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

C. At the organizational meeting of the City Council, the mayor shall appoint members of such standing committees as the council may by ordinance or resolution create. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. The members of the standing committees shall serve terms of office of one year, unless reappointed.

(Neb. Rev. Stat. §17-204) (Am. by Ord. No. 224, 4/5/76)

SECTION 1-307: NOTICE TO NEWS MEDIA

The city clerk, secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (Neb. Rev. Stat. §84-1411) (Ord. No. 226, 4/5/76)

SECTION 1-308: PLACE, DAY, TIME; QUORUM

The meetings of the City Council shall be held at the usual meeting place. Regular meetings shall be held on the first and third Monday of each month at the hour of 5:30 p.m. A majority of the council shall constitute a quorum for the transaction of any business but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the council shall be called to order by the mayor, if present, or if absent, by the president of the council. In the absence of both the mayor and the president of

the council, the meetings shall be called to order by the president pro tempore. (Neb. Rev. Stat. §17-105) (Am. by Ord. Nos. 294, 9/8/81; 387, 10/18/93; 426, 4/5/99)

SECTION 1-309: 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. (Neb. Rev. §17-106)

SECTION 1-310: CLOSED SESSIONS

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

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

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

C. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" shall include a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy.

D. Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member

contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting nor shall a public body designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article, nor shall any closed session, information meeting, chance meeting, social gathering, or electronic communication be used for the purpose of circumventing the provisions of this article. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410) (Ord. No. 226, 4/5/76) (Am. by Ord. No. 387, 10/18/93)

SECTION 1-311: EMERGENCY MEETINGS

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-307 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411) (Ord. No. 226, 4/5/76) (Am. by Ord. No. 387, 10/18/93)

SECTION 1-312: VOTES

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Neb. Rev. Stat. §84-1413) (Ord. No. 226, 4/5/76)

SECTION 1-313: MINUTES

A. Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours.

B. The minutes of any meeting of the City Council shall be written and availa-

ble for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the city clerk may have an additional ten working days if absent due to a serious illness or emergency (Neb. Rev. Stat. §84-1412, 84-1413) (Ord No. 226, 4/5/76)

SECTION 1-314: ORDER OF BUSINESS

Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the city clerk, the mayor, and such other city officials that may be required shall take their regular stations in the meeting place and the business of the City shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the city clerk.

SECTION 1-315: PARLIAMENTARY PROCEDURE

Questions of procedure and conduct at council meetings shall be decided by the mayor in accordance with *Robert's Rules of Order*.

SECTION 1-316: PROCEDURES FOR DISCUSSION AND FOR ADDRESSING THE CITY COUNCIL WHILE IN SESSION

All meetings of the City Council shall be carried on in accordance with the following procedures:

A. The meeting shall be called to order by the presiding officer, who shall be chosen in accordance with Section 1-203 (City Council; President).

B. All meetings shall be carried on in the order mandated by the official agenda.

1. All persons who wish to place matters on the agenda shall do so by notifying the city clerk at least 24 hours prior to the time scheduled for the meeting.
2. All persons asking to place matters on the agenda must appear at the council meeting in person or by and through their designated representatives, agents or legal counsel, or the council may table the matter and not take the matter up for discussion at the meeting.

C. The meeting shall proceed by taking up each item on the agenda separately and carrying on a discussion of that subject.

1. Each council member desiring to speak on a particular item on the agenda shall address the presiding officer and upon recognition by him or her, shall confine discussion to the question under debate.

2. A member of the council shall not be interrupted while speaking unless it is to call him or her to order. If a member is called to order while speaking, that member shall cease speaking until the question of order is determined and, if in order, shall be permitted to proceed.
3. The presiding officer of the City Council shall provide opportunity during council meetings for discussion by interested persons or their authorized representatives on any council bill or other matters before the council prior to final passage; provided, preference shall be given to any person who, at least 24 hours prior to the council meeting, shall have requested opportunity for discussion by written notice directed to the city clerk.
4. Each person addressing the City Council shall step up to the clerk's table, give his or her name and address for the records and, unless further time is granted by the council, shall limit his or her address to five minutes. All remarks shall be addressed to the City Council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked a council member except through the presiding officer.

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

E. No person shall make personal, impertinent or slanderous remarks nor otherwise disturb the order and the decorum of any council meeting. An individual may be removed for violating the provisions of this subsection.

(Ord. No. 316)

Article 4 – Ordinances, Resolutions, and Motions

SECTION 1-401: GRANT OF POWER

The City Council shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the laws of the State of Nebraska as may be necessary and proper for maintaining the peace, good government, and welfare of the City and its trade, commerce, and security. (Neb. Rev. Stat. §17-505)

SECTION 1-402: ORDINANCES; TITLE

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

SECTION 1-403: ORDINANCES; STYLE

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

SECTION 1-404: ORDINANCES; INTRODUCTION

Ordinances shall be introduced in either of the following ways:

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

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

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

D. Ordinances shall contain no subject which is not clearly expressed in the title and, except as provided in Neb. Rev. Stat. §19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire or-

dinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

1. For an ordinance revising all the ordinances of the city, the title need only state that the ordinance revises all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and
2. For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

(Neb. Rev. Stat. §17-614, 17-616)

SECTION 1-405: ORDINANCES; PASSAGE

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

SECTION 1-406: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE

A. All ordinances of a general nature shall be published one time within 15 days after they are passed in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy thereof in each of three public places in the City.

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

(Neb. Rev. Stat. §17-613)

SECTION 1-407: 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 or-

dinance shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency notice shall recite the emergency, be passed by three-fourths vote of the City Council, and entered upon the city clerk's minutes. (Neb. Rev. Stat. §17-613)

SECTION 1-408: RESOLUTIONS AND MOTIONS

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

Article 5 – Appointed Officials

SECTION 1-501: GENERAL AUTHORITY

A. The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The terms of office for all officers appointed by the mayor and confirmed by the City Council, except regular police officers, shall be one year unless sooner removed.

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

SECTION 1-502: MERGER OF OFFICES

The City Council may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except the mayor or a council member, with any other elective or appointive office so that one or more of such offices may be held by the officer or employee at the same time; provided, the offices so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only; and provided further, the salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. (Neb. Rev. Stat. §17-108.02)

SECTION 1-503: CLERK-TREASURER POSITION CREATED

The appointive offices of city clerk and city treasurer are hereby combined and merged in accordance with the authority granted to the City Council by Section 1-502. The office so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

SECTION 1-504: CITY CLERK

A. The city clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. Within 30 days after any council meeting, the he or she shall prepare and publish the official proceedings in a legal newspaper of general circulation in the city and which was duly designated as such by the council. Said publication shall set forth a statement of the proceedings thereof and shall

also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. The city clerk shall keep a record of all outstanding bonds against the city and when any bonds are sold, purchased, paid, or canceled, said record shall show the fact. At the end of the fiscal year he or she shall make a report of the business of the city transacted through the office for the year, describing 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 and shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted.

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

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

E. 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 to them. With the seal of the city, he or she shall duly attest the mayor's signature on all ordinances, deeds and papers required to be attested to.

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

G. The city clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the city and in the event that any of said claims is disallowed in part or in whole, the

city clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance. The clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

H. The city clerk shall keep all city records, including a record of all licenses issued in a blank book with a proper index. He or she shall include as part of the records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. 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 shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The city clerk shall permit no records, public papers, or other documents of the city kept and preserved in the office to be taken therefrom except by such officers of the city as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The city clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council.

J. The city clerk shall have the custody of all laws and ordinances. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §84-1201 to 84-1220, the clerk may transfer the journal of the council proceedings to the state archives of the State Historical Society for permanent preservation.
(Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 thru 84-1220, 84-712)

SECTION 1-505: CITY TREASURER

A. The city treasurer shall be the custodian of all moneys belonging to the city, keeping the same separate and distinct from his or her own money. The treasurer shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. He or she shall issue duplicate receipts for all moneys received, giving to every person paying money into the city treasury a receipt therefor, specifying the date of payment and the account paid. One of the receipts shall be filed with his or her monthly report and the last copy of the said receipt shall be kept on file in the office. The city books and accounts shall always be open for inspection by any citizen of the city whenever any city fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. The treasurer shall cancel all bonds, coupons, warrants, and other evidence of debt against the city, whenever paid, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners and shall obtain from the county treasurer a monthly report as to the collection of delinquent taxes. The treasurer's daily cash book shall be footed and balanced daily, and he or she shall adopt such

bookkeeping methods as the City Council shall prescribe. He or she shall invest and collect all money owned by or owed to the city as directed by the council. (Neb. Rev. Stat. §17-606 through 17-609, 84-712)

B. The city treasurer shall, at the end of each and every month and such other times as the City Council may deem necessary, render an account under oath showing the financial state of the city at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the treasury. He or she shall accompany the said account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her. He or she shall also produce depository evidence that all city money is in a solvent and going bank in the name of the city. If the city treasurer shall neglect or fail for the space of 20 days from the end of each and every month to render his or her accounts as aforesaid, the City Council shall by resolution declare the office vacant and appoint another person to fill the vacancy. The city treasurer shall be present at each regular meeting of the council, at which time he or she shall read and file a monthly report. (Neb. Rev. Stat. §17-606)

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

SECTION 1-506: CITY ATTORNEY

The city attorney shall be the legal advisor of the City and shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the City or that may be ordered by the City Council; attend council meetings when requested; give an opinion upon matters submitted to him or her, either orally or in writing, as may be required; draft and review for legal correctness any ordinances, contracts, franchises, and other instruments as may be required; perform such other duties as may be imposed upon him/her by general law or ordinance. The council shall have the right to pay the city attorney compensation for legal services performed by him/her on such terms as the council and attorney may agree and to employ additional legal assistance and pay for such legal assistance out of the funds of the City. (Neb. Rev. Stat. §17-610)

SECTION 1-507: FIRE CHIEF

The duties of the fire chief shall be as provided in Section 8-102.

SECTION 1-508: SPECIAL ENGINEER

The City Council may employ a special engineer to make any particular estimate, survey, or other work. He shall make a record of the minutes of his surveys and all other work done for the City. He shall, when directed by the council, accurately make

all plats, sections, profiles, and maps as may be necessary in the judgment of the council. He shall, upon request, make estimates of the costs of labor and material which may be done or furnished by contract with the City and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, or culverts and for the building, constructing, or repairing of any public improvement of the City. All records of the special engineer shall be public records which shall belong to the City and shall be turned over to his successor. He shall, when directed by the City Council, inspect all works of public improvement and if found to be properly done, shall accept the same and report his acceptance to the council. He shall estimate the cost of all proposed city utilities and public improvements, together with any extensions thereof which the council may propose to construct or improve. (Neb. Rev. Stat. §17-405, 17-568, 17-919)

SECTION 1-509: UTILITIES SUPERINTENDENT

A utilities superintendent shall be appointed in the event that there is more than one city utility and the City Council determines that it is in the best interest of the City to appoint one official to have the immediate control over all the said city utilities. The superintendent may be removed for good cause by the mayor. Any vacancy occurring in the said office by death, resignation or removal may be filled in the manner provided for the appointment of all city officials. The superintendent's duties over the following departments shall be as follows:

Water Department

The utilities superintendent shall have general supervision and control over the city water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house and all machinery and appliances used in connection with producing and distributing water to inhabitants of the City. All actions, decisions, and procedures of the superintendent shall be subject to the general directives and control of the City Council. He shall have the general control and supervisory authority over all employees of the water system which the council may from time to time hire to operate and maintain the said system. He shall make a detailed report to the council at least once every six months of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he may think proper. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the superintendent. He shall provide a bond conditioned upon the faithful discharge of his duties which shall amount to not less than the amount set by resolution of the City Council, on file in the office of the city clerk. He shall perform such additional duties as may be prescribed by the council.

Sewer Department

The utilities superintendent shall have the immediate control and supervision over all the employees and property that make up the city sewer system, subject to the gen-

eral control and directives of the City Council. He shall at least every six months make a detailed report to the council on the condition of the sewer system and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall issue permits for all connections to the city sewer system and inspect and supervise all repairs made to the said system. He shall have such other duties as the council may delegate to him.

Electrical System

The utilities superintendent shall have the immediate control and supervision over all employees and property that make up the city electric system, subject to the general control and directives of the City Council. He shall at least every six months make a detailed report to the council on the condition of the electrical system and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall have such other duties as the council may delegate to him.

(Neb. Rev. Stat. §17119, 17-541, 17-543, 19-1405)

SECTION 1-510: STREET COMMISSIONER

The City Council may appoint a street commissioner. He shall, subject to the orders and directives of the council, 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 responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He shall, at the request of the City Council, make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges of the City and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees 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 issue such permits and assume such other duties as the council may direct.

SECTION 1-511: BUILDING INSPECTOR

The duties of the building inspector shall be as provided in Section 9-201.

SECTION 1-512: ZONING INSPECTOR

The City Council may appoint a zoning inspector. In the absence of a specific appointment by the City Council, the mayor may appoint a qualified individual to serve in such capacity.

Article 6 – Fiscal Management

SECTION 1-601: FISCAL YEAR

The fiscal year of the city and any public utility of the city commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. Rev. Stat. §17-701)

SECTION 1-602: PUBLIC FUNDS DEFINED

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

SECTION 1-603: DEPOSIT OF FUNDS

The City Council, at its first meeting in each fiscal year, shall designate one or more banks of approved and responsible standing in which the city treasurer shall keep at all times all money held by him or her; provided, if more than one bank in the City meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the treasurer shall not give a preference to any one or more of them in the money deposited. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time, less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (Neb. Rev. Stat. §17-607, 77-2362 thru 77-2364)

SECTION 1-604: INVESTMENT OF FUNDS

A. The City Council may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the City and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

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

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the City with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the State; and
4. At the same time that the funds are deposited into and such certificates of deposit or time deposits are issued by other banks, capital stock financial institutions, or qualifying mutual financial institutions, the bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds in certificates of deposit or time interest-bearing deposits was initially made receives an amount of deposits from customers of other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States which is equal to or greater than the amount of the investment or deposit of funds in certificates of deposit or time interest-bearing deposits initially made by the City.

(Neb. Rev. Stat. §77-2365.02)

SECTION 1-605: CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS

A. 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 or capital stock financial institution in the State to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation (FDIC). 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 manner provided in this section. The provisions of Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions.

B. For the security of the fund so deposited, the city treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the City and be approved by the mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate, showing the several daily balances, the amount of money of the City held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be condi-

tioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the City Council for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. Rev. Stat. §77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the city clerk.

C. In lieu of the bond required by subsection (B) of this section, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the city clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the FDIC.

D. The treasurer shall not have on deposit (1) in any bank or capital stock financial institution at any time more than the amount insured by the FDIC plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor (2) in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the FDIC plus one-half of the amount of the bond of such bank or capital stock financial institution. The amount so on deposit any time with any such bank or capital stock financial institution shall not in either case exceed the amount insured by the FDIC plus paid-up capital stock and surplus of such bank or capital stock financial institution. The treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the mayor as provided in subsection (B) of this section or which has, in lieu of a surety bond, given security as provided in subsection (C) of this section.

(Neb. Rev. Stat. §17-720, 16-714 through 16-716)

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

A. The City may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. §45-601 to 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the City.

B. No debt owed pursuant to subsection (A) of this section may be assigned to a collection agency unless:

1. There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid and
2. At least 30 days have elapsed from the time the notice was sent.

C. A collection agency which is assigned a debt under this section shall have

only those remedies and powers which would be available to it as an assignee of a private creditor.

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

(Neb. Rev. Stat. §45-623)

SECTION 1-607: CLAIMS

All claims against the City shall be presented to the City Council in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the City in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §17-714, 17-715)

SECTION 1-608: WARRANTS

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

SECTION 1-609: EXPENDITURES

No city official shall have the power to appropriate, issue, or draw any order or warrant on the city treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the City shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

SECTION 1-610: BOND ISSUES

The City Council may, after meeting all the requirements of state law, issue bonds,

fund bonds, and retire bonds for such purposes as may be permitted by state law. The Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law.

(Neb. Rev. Stat. §10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

SECTION 1-611: SINKING FUNDS

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

B. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City at the next general city election the proposition to provide the improvement. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law.

C. 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 council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund.

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

SECTION 1-612: TRANSFER OF FUNDS

A. Whenever during the current fiscal year or biennial period it becomes apparent to the City Council that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the council may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. Any officer or officers of the City Council who obligate funds contrary to the provisions of this sec-

tion shall be guilty of a Class V misdemeanor.

B. Unless otherwise provided by law, whenever during the current fiscal year or biennial period 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 or biennial period was adopted, (2) the budget adopted violated Neb. Rev. Stat. §13-518 to 13-522 such that the revenue of the current fiscal year or biennial period for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to 13-522, or (3) the City Council has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, the council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

C. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City's jurisdiction. 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 or biennial period 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.

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

E. Within 30 days after adoption of the budget under Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the auditor, the council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the council shall file a copy of the corrected budget with the county clerk and with the auditor. The council may then issue warrants in payment for expenditures authorized by the budget.
(Neb. Rev. Stat. §13-510, 13-511)

SECTION 1-613: SPECIAL ASSESSMENT FUND

All money received on special tax assessment shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose unless to reimburse the City for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

SECTION 1-614: GENERAL FUND

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

SECTION 1-615: CONTRACTS

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

B. The City's electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is:

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

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

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

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

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

F. The city bidding procedure shall be waived when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure.

(Neb. Rev. Stat. §17-568.01, 17-613) (Am. by Ord. Nos. 231, 4/5/76; 268, 9/18/79)

SECTION 1-616: ANNUAL AUDIT

The City Council shall cause an audit of the City accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the council. The said audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit no fewer than three copies of the audit report to the council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately and the results of such audits shall appear separately in the annual audit report. Such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the city clerk, becoming a part of the public records of the clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the auditor of public accounts. (Neb. Rev. Stat. §19-2901 thru 19-2909) (Am. by Ord. No. 249, 11/7/77)

SECTION 1-617: APPROPRIATIONS

The City Council shall, on or before September 20, pass an ordinance or resolution to be termed "The Annual Appropriation Bill," in which in which such corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance or resolution shall specify the objects and purposes for which such appropriations are to be made and the amount appropriated for each purpose. Any balance unexpended and unobligated at

the end of the fiscal year shall, unless reappropriated, lapse into the general fund.
(Neb. Rev. Stat. §17-706)

SECTION 1-618: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED

For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

SECTION 1-619: PROPOSED BUDGET STATEMENT

A. The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the auditor. It shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. Rev. Stat. §13-506. The 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 fifty percent of the total budget adopted exclusive of capital outlay items;

4. A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property for the purpose of paying the principal or interest on bonds issued by the City Council and 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 City Council; 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 City Council as provided in the Municipal Proprietary Function Act.

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

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

D. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property, shall equal the amount to be received from taxes and such amount shall be shown on the proposed budget statement pursuant to Neb. Rev. Stat. §13-504. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures plus the necessary required cash reserve for the ensuing year.

(Neb. Rev. Stat. §13-504, 13-505)

SECTION 1-620: PROPOSED BUDGET STATEMENT; NOTICE; HEARING

A. The City Council shall each year conduct a public hearing on its proposed budget statement. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the council's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000.00 per year, the proposed budget summary may be posted at the city office. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and

adopted as amended. If the levying board represents more than one county, a member or a representative of the City Council shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. 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. 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.

B. Upon approval by the City Council, the budget shall be filed with the auditor, who may review the budget for errors in mathematics, improper accounting, and non-compliance with the provisions of the Nebraska Budget Act or Neb. Rev. Stat. §13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the City Council of such errors. The council shall correct any such error as provided in Neb. Rev. Stat. §13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or non-compliance for which the auditor has notified the council.
(Neb. Rev. Stat. §13-506, 13-507)

SECTION 1-621: EXPENDITURES PRIOR TO ADOPTION OF BUDGET

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

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond an amount authorized are necessary to enable the City to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the council in open, public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the City in excess of that authorized by any other statutory provision.
(Neb. Rev. Stat. §13-509.01, 13-509.2)

SECTION 1-622: ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX

A. After publication and hearing on the proposed budget statement and within

the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the auditor of public accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the council and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

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

C. The City Council may designate one of its members to perform any duty or responsibility required of such body by this section.

(Neb. Rev. Stat. §13-508)

SECTION 1-623: REVISION OF BUDGET

A. Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal, whenever during the current fiscal year it becomes apparent to the council that:

1. There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
2. The budget adopted violated Neb. Rev. Stat. §13-518 to 13-522 such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to 13-522; or
3. The council has been notified by the state auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

B. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the City Council's jurisdiction. Such published notice shall set forth the following:

1. The time and place of the hearing;

2. The amount in dollars of additional or reduced money required and for what purpose;
3. A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
4. A copy of the summary of the originally adopted budget previously published; and
5. A copy of the summary of the proposed revised budget.

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

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

E. Within 30 days after the adoption of the budget under Neb. Rev. Stat. §13-506, the City Council may, or within 30 days after notification of an error by the state auditor, the council shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the council shall file a copy of the corrected budget with the county clerk and the state auditor. The council may then issue warrants in payment for expenditures authorized by the budget.
(Neb. Rev. Stat. §13-511)

SECTION 1-624: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES

The City Council has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all city purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309, to be levied upon the taxable valuation of all taxable property in the City. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The City Council shall allocate the amount

raised by the all-purpose levy to the several departments of the City in its annual budget and appropriation ordinance or in other legal manner as the council deems wisest and best. The City shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made by the City in addition to the all-purpose levy. (Neb. Rev. Stat. §19-1309 through 19-1312)

SECTION 1-625: PROPERTY TAX LEVY; 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. Rev. Stat. §77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing, called for such purpose, is held and after notice is published in a newspaper of general circulation in the City at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was funding that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

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

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

SECTION 1-626: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED

A. Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this subsection (A), except as provided in subsection (B) of this section. 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(s) executed pursuant to the Inter-local Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health

nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statute, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments obtained against the City which require or obligate the City to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the City, for pre-existing lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this subsection (A). The limitations on tax levies provided in this subsection (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 subsection (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. Rev. Stat. §77-1606 unless approved under subsection (B) of this section.

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

1. 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 two-thirds of the council members and delivering a copy of the resolution to the county clerk or election commissioner; or (b) upon receipt of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the City.
2. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) of this section and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk or election commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through 32-631. Any excess levy authority approved under this subsection (B) shall terminate pursuant to its terms, on a vote of

the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit or as provided in subsection (C) of this section, whichever is earliest. The council may pass no more than one resolution calling for an election pursuant to this subsection (B) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this subsection (B). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444. If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in subsection (A) of this section but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax. The county clerk or election commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in Neb. Rev. Stat. §77-3442 or the final levy allocation as provided in Neb. Rev. Stat. §77-3443 to the voters of political subdivisions in the county seeking additional levy authority. The City may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk or election commissioner, except that the City Council shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk or election commissioner no later than 30 days prior to the date of the election.

C. 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.

1. The City Council may call for the submission of the issue to the voters (a) by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the council members and delivering a copy of the resolution to the county clerk or election commissioner; or (b) upon request of a petition by the county clerk or election commissioner requesting an election, signed by at least 5% of the registered voters residing in the City.
2. 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 modifica-

tion shall not have a duration greater than five years. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. Rev. Stat. §77-3442 through 77-3444)

SECTION 1-627: INADEQUATE VALUATION

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

SECTION 1-628: GENERAL PROPERTY TAX

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

Article 7 – Elections

SECTION 1-701: ELECTIONS GENERALLY

The city primary and general election shall be held in accordance with the provisions of Neb. Rev. Stat. Chapter 32. Said elections shall be held in conjunction with the state primary and general election. The county clerk shall have charge of the election and shall have the authority to deputize the city clerk for city election purposes. Commencing with the statewide primary election in 1976 and every two years thereafter, those candidates for mayor and for positions on the City Council whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election. (Neb. Rev. Stat. §32-533) (Am. by Ord. Nos. 228, 4/5/76; 245, 11/7/77)

SECTION 1-702: CITY COUNCIL

City Council members shall be elected from the City at large unless the residents of the City have voted to elect its council members by wards. Council members shall serve for terms of four years, until their successors are elected and have qualified, and shall be residents and qualified electors. If the election of council members takes place by wards, each nominee for council member shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions. (Neb. Rev. Stat. §32-533, 32-602) (Am. by Ord. No. 295, 9/8/81)

SECTION 1-703: CANDIDATE QUALIFICATIONS

Any person seeking elected office in the City shall be a registered voter prior to holding such office and shall not hold any other public elective public office. (Neb. Rev. Stat. §17-103)

SECTION 1-704: PETITION CANDIDATES

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

B. The number of signatures of registered voters needed to place the name of a candidate upon the ballot for a city office for the general election shall be as fol-

lows:

1. Nonpartisan ballot: at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the city, not to exceed 2,000.
2. Partisan ballot: at least 20% of the total vote for governor or president of the United States at the immediately preceding general election within the city, not to exceed 2,000.

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

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

(Neb. Rev. Stat. §32-617)

SECTION 1-705: WRITE-IN CANDIDATES

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists pursuant to Neb. Rev. Stat. §32-625. A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §32-615) (Ord. No. 228, 4/5/76) (Am. by Ord. No. 267, 9/18/79)

SECTION 1-706: FILING FEE

Prior to the filing of any nomination papers, there shall be paid to the city treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file. No nominating papers shall be filed until the proper city treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Neb. Rev. Stat. §32-608)

SECTION 1-707: BALLOTS

It shall be the duty of the county clerk to provide printed ballots for every general city election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Neb. Rev. Stat. §32-805, 32-1202)

SECTION 1-708: PRIMARY OR GENERAL ELECTION NOTICE

The county clerk shall publish in a newspaper designated by the County Board the notice of the election no fewer than 40 days prior to the primary or general election. This notice will serve the notice requirement for all city elections which are held in conjunction with the County. (Neb. Rev. Stat. §32-802) (Am. by Ord. Nos. 229, 4/5/76; 246, 11/7/77)

SECTION 1-709: PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated and no primary election for their nomination shall be required. (Ord. No. 228, 4/5/76)

SECTION 1-710: GENERAL ELECTION; PREPARATION OF BALLOT

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

B. The county clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing. The candidates receiving the greatest number of votes shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms.

(Ord. No. 228, 4/5/76) (Am. by Ord. Nos. 245, 11/7/77; 293, 9/8/81)

SECTION 1-711: EXIT POLLS

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

SECTION 1-712: RECOUNT OF BALLOTS

The losing candidate for any office at the city election may request a recount of the ballots cast when the official canvass of such votes cast reveals that there is a difference of 25 votes or fewer between the total cast for the winner and the loser. Such recount shall be made if the losing candidate files a written request therefor with the city clerk within three days following the completion of the official canvass. (Neb. Rev. Stat. §19-3042 thru 19-3050)

SECTION 1-713: CERTIFICATE OF ELECTION

After the canvass of the vote at the city election, the city clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote, and in the form as nearly as possible prescribed by state law, which shall be signed by the mayor under the seal of the City and countersigned by the city clerk. The said certificates shall then be delivered to the persons so elected. (Neb. Rev. Stat. §19-3040, 19-3041, 32-4,111, 32-4,152)

SECTION 1-714: SPECIAL CITY ELECTION

In lieu of submitting a matter or issue at a separate special city election, the City may submit such matter or issue at a statewide general or primary election. Such matter or issue must be certified by the city clerk to the county clerk at least 50 days prior to the election. The city clerk shall be responsible for the publication or posting of any required special notice of the submission of such matter other than that required to be given of the statewide election issues.

SECTION 1-715: SPECIAL ELECTION NOTICE

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

SECTION 1-716: RECALL PROCEDURE

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

B. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk. Each petition paper shall conform to the requirements of state law. 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(s) of the recall petition. The affidavit shall state the name and office of the official sought to be

removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

C. The city clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record to be kept in his or her office the name of the principal circulator 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 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 who checks out petitions from the city clerk may distribute such petitions to registered voters residing in the City who may act as circulators of such petitions.

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

E. A petition demanding that the question of removing a member of the City Council 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 the person receiving the most votes for that office in the last general election.

F. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after the city clerk issues the initial petition papers to the principal circulator. 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 signature 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 city clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

G. If the recall petition is found to be sufficient, the city clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the 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 City Council sets the date for the recall election, the recall election shall be held regard-

less of whether the official whose removal is sought resigns before the recall election is held.

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

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

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

K. If an official is recalled or a vacancy needs to be filled as the result of a recall petition, the City shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to Neb. Rev. Stat. §32-1306, the City shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in Neb. Rev. Stat. §32-1202 associated with preparing for and conducting a recall or special election.

(Neb. Rev. Stat. §32-1301 through 32-1309)

Article 8 – Penal Provision

SECTION 1-801: VIOLATION; PENALTY

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