

## **CHAPTER 1: ADMINISTRATIVE**

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## **ARTICLE 1: ELECTED OFFICIALS**

### **§ 1-101 CITY MAYOR; SELECTION AND DUTIES.**

The Mayor of the Municipality shall have the general, and immediate control over all property, and officials, whether elected, or appointed, of the Municipality. He shall preside at all meetings of the City Council, and may vote when his vote shall be decisive on any pending matter, legislation, or transaction and the Mayor shall, for the purpose and the Council is equally divided on any pending matter, legislation, or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. His signature must appear on the Municipal Clerk's minutes of all meetings, and he must sign all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council; Provided, any ordinance vetoed by the Mayor may be passed over his veto by a two-thirds (2/3) vote by the members of the City Council, but if the Mayor neglects or refuses to sign any ordinance, and returns it to the Council with his objections in writing at the next regular Council meeting, the same shall become a law without his signature. He shall from time to time communicate to the Council such information and recommendations as, in his opinion, may improve the Municipality. He may require at reasonable intervals any Municipal official to exhibit his accounts and make reports to the Council on any subject pertaining to his office. He shall have the power to remit fines or pardon any offense arising under the ordinances of the Municipality. He shall have the authority to call on every male inhabitant of the Municipality over eighteen (18) years of age and under the age of fifty (50) years to aid in enforcing the laws. He may remove at any time an appointed police officer of the Municipality. His territorial authority shall extend over all places within five (5) miles of the corporate limits of the Municipality for the enforcement of any health ordinance, and one half (½) mile in all matters vested in him except taxation. He shall also have such other duties as the City Council may by resolution confer upon him, or in any other matters which the laws of the State of Nebraska repose in him. He shall be elected at the Municipal Election, and shall serve a four (4) year term of office. Any candidate for Mayor must have resided within the Municipality for forty (40) days prior to filing for the said office and must in addition be a qualified taxpayer. (*Ref. 17-110 through 17-117 RS Neb.*) (*Amended by Ord. No. 385, 12/16/75*)

### **§ 1-102 CITY COUNCIL; ACTING PRESIDENT.**

The City Council shall elect one (1) of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one (1) of its own body to occupy his place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the

President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the Municipality as if done by the elected Mayor. (*Ref. 17-148 RS Neb.*)

#### **§ 1-103 CITY COUNCIL; SELECTION AND DUTIES.**

The members of the City Council shall be elected and serve for a four (4) year term. The City Council shall be the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (*Ref. 17-103, 17-104 RS Neb.*)

#### **§ 1-104 CITY COUNCIL; ORGANIZATION.**

City Councilmembers of this Municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Councilmembers who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Councilmen-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the Municipality shall be represented by at least two (2) Councilmen. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he is qualified and should any City Councilman move from the ward from which he was elected, his office shall thereby become vacant. (*Ref. 17-104, 17-107.01 RS Neb.*) (*Amended by Ord. No. 386, 12/16/75*)

#### **§ 1-105 ELECTED OFFICIALS; VACANCY.**

Whenever a vacancy occurs in an elected office of the Municipality, 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.

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 Municipality or by posting in three (3) public places in the Municipality the office vacated and the length of the unexpired term.

The Mayor shall within two (2) weeks after the regular meeting at which such notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council at which time the Mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

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

Upon a majority vote of approval by the City Council the vacancy shall be filled. If a majority vote is not reached the nomination shall be rejected and the Mayor shall 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.

The Mayor shall cast his vote only in case of a tie vote of the City Council.

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

The Mayor and Council may, in lieu of filling a vacancy in a City office as provided above in this section, call a special Municipal Election to fill such vacancy.

If there is a vacancy in the offices of a majority of the members of the City Council, there shall be a special Municipal Election conducted by the Secretary of State to fill such vacancies. (*Ref. 32-4,152, 32-1406 RS Neb.*) (*Amended by Ord. Nos. 387, 12/16/75; 513, 10/2/84*)

**§ 1-106 ELECTED OFFICIALS; MAYOR; VACANCY.**

Whenever a vacancy occurs in the office of Mayor, or in case of his disability or absence, the President of the Council shall exercise the office of Mayor until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.

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

If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in section 1-105. (*Ref. 17-107, 17-115 RS Neb.*) (*Ord. No. 387, 12/16/75*)

**§ 1-107 HIRING OF RELATIVES AND/OR FAMILY MEMBERS.**

(A) *Nepotism.* This policy applies to all City elected and appointed officers and employees, except as otherwise provided herein, and is to establish a nepotism policy regarding the hiring and supervision of relatives and/or family members who are employed by the Municipality.

(B) *Definitions.* For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***IMMEDIATE FAMILY MEMBERS.*** Include the following:

(a) *By blood:* Parent, child, grandparent, grandchild, brother, sister, nieces, nephews, uncles, aunts, great grandchildren, great grandparents;

(b) *By marriage:* Husband, wife, stepparent, stepchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, half-sister, half-brother;

(c) *By law:* Guardianship relationships and adoptive parent/child relationships;

(d) *Domestic partner:* Individuals living together in a meretricious relationship.

***SUPERVISOR.*** An employee with any of the following responsibilities:

(a) Responsible for, or effectively contributes to, employee's performance appraisal;

(b) Issues low level discipline (oral and documented oral counseling) or recommends higher level discipline;

(c) Responds to initial level of grievance;

(d) Accountable for employee's time (e.g., schedule and/or time-sheet approval)

(C) *Employment policy.* Subject to the restrictions and provisions of Sections 49-1499 et. seq. RS Neb. and all other statutory provisions of the State of Nebraska pertaining to nepotism and conflicts of interest:

(1) It is the policy of the Municipality that members of an immediate family, as defined above, shall not be employed by the Municipality in a supervisory-subordinate relationship, except in exceptional circumstances in which there is no reasonable alternative, and/ or when the Governing Body has declared it to be in the public interest that such employment be approved, but only with the approval of a majority of the Governing Body.

(2) Unless specifically authorized by a majority of the Governing Body, no municipal employee shall directly or indirectly supervise an immediate family member, nor shall immediate family members be employed in the supervisory-subordinate relationship.

(3) No elected or appointed public official or any municipal employee shall intervene in any employment matter involving an immediate family member and shall refrain from involvement in any employment matter which may be viewed as a conflict of interest. (*Ord. No. 841,5/4/11*)

## **ARTICLE 2: APPOINTED OFFICIALS**

### **§ 1-201 APPOINTED OFFICIALS; GENERAL AUTHORITY.**

The Mayor, by, and with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor. The Mayor, by, and with the consent of the City Council, shall appoint such a number of regular policemen, and other officials as may be necessary, and may establish a police reserve force as provided by law. All police officers may be removed, demoted or suspended at any time by the Mayor as provided in section 3-402 of this Code (*Ref. 81-1438 through 81-1446 RS Neb.*) (*Amended by Ord. No. 415, 3/1/77*)

#### **§ 1-201.01 HIRING OF RELATIVES AND/OR FAMILY MEMBERS.**

For provisions on the nepotism policy regarding the hiring and supervision of relatives and/or family members who are employed by the Municipality, see § 1-107.

### **§ 1-202 APPOINTED OFFICIALS; MERGER OF OFFICES.**

The Governing Body of the Municipality may, in its discretion, by ordinance combine, and merge any elective, or appointive office, or employment, except the Mayor or a City Councilman 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. (*Ref. 17-108.02 RS Neb.*)

#### **§ 1-202.01 APPOINTED OFFICIALS; CLERK-TREASURER POSITION CREATED; MERGER OF APPOINTED OFFICES OF MUNICIPAL CLERK AND MUNICIPAL TREASURER.**

The offices of Municipal Clerk and the duties thereof prescribed in section 1-203 of this Code and of Municipal Treasurer and the duties thereof as prescribed in section 1-204 of this Code are hereby combined so that such office may be held by the same person to be known as the CLERK-TREASURER in accordance with the authority granted to the Governing Body by section 1-202 of this Code. The combination or merger of said offices shall be limited to the consolidation of the official duties only, and

the offices so merged and the duties thereof shall otherwise be construed to be separate. The salary of the officer holding the combined office shall not be in excess of the maximum amount provided by law. All references to Municipal Clerk or Municipal Treasurer shall hereafter apply to the Municipal Clerk-Treasurer. (*Ord. No. 746, 11/4/03*)

### **§ 1-203 APPOINTED OFFICIALS; MUNICIPAL CLERK.**

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

The Municipal Clerk shall issue, and sign all licenses, permits, and occupation tax receipts authorized by law, and required by the Municipal ordinances. He or she shall collect all occupation taxes, and license money except where some other Municipal officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the Municipality, and the purpose for which they have been issued.

The Municipal Clerk shall permit no records, public papers, or other documents of the Municipality kept, and preserved in his or her office to be taken therefrom, except by such officers of the Municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Governing Body shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions, and ordinances relating to the same. He or she shall endorse the date, and hour of filing upon every paper, or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate, and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds, and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and

committees all resolutions, and communications which are directed at said officers, employees, or committees. With the seal of the Municipality, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Governing Body. Within thirty (30) days after any meeting of the Governing Body, the Municipal Clerk shall prepare, and publish the official proceedings of the Governing Body in a legal newspaper of general circulation in the Municipality, and which was duly designated as such by the Governing Body. 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 (1) item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to 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 the statutes of the State of Nebraska. 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 the Municipal Clerk by order of the Governing Body, or under the ordinances of the Municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

The Municipal 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 Municipality, and in the event that the said claim is disallowed in part, or in whole, the Municipal Clerk shall notify such claimant, his or her agent, or attorney by letter within five (5) days after such disallowance, and the Municipal Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Governing Body. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to sections 84-1201 through 84-1220; provided, the Governing Body shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board. (*Ref. 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712 RS Neb.*) (*Amended by Ord. No. 388, 12/16/75; 611, 5/4/93*)

#### **§ 1-204 APPOINTED OFFICIALS; MUNICIPAL TREASURER.**

(A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The City Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or



her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the City Treasurer fails to render his or her account within twenty (20) days after the end of the month, or by a later date established by the Governing Body, the Mayor may use this failure as cause to remove the Treasurer from office. *(Ref. 17-606 RS Neb.)*

(B) (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefor. *(Ref. 77-2201 RS Neb.)*

(2) The City Treasurer shall keep a warrant register in the form required by section 77-2202 RS Neb.

(3) The City Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office. *(Ref. 77-2209 RS Neb.)*

(4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. *(Ref. 77-2210 RS Neb.)*

(C) (1) The City Treasurer shall prepare and publish annually within sixty (60) days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. *(Ref. 19-1101 RS Neb.)*

(2) Publication shall be made in one legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the City is located. *(Ref. 19-1103 RS Neb.)*

(D) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

**§ 1-205 APPOINTED OFFICIALS; TREASURER'S MONTHLY REPORT.**

*(Repealed 2005)*

**§ 1-206 APPOINTED OFFICIALS; TREASURER'S ANNUAL REPORT.**

*(Repealed 2005)*

**§ 1-207 APPOINTED OFFICIALS; MUNICIPAL ATTORNEY.**

The Municipal Attorney is the Municipality's legal advisor, and as such he shall commence, prosecute, and defend all suits on behalf of the Municipality. When requested by the Governing Body, he shall attend meetings of the Governing Body, and shall advise any Municipal Official in all matters of law in which the interests of the Municipality may be involved. He shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the Municipality. He shall examine all bonds, contracts, and documents on which the Governing Body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether, or not, the document is in legal, and proper form. He shall prepare complaints, attend, and prosecute violations of the Municipal ordinances when directed to do so by the Governing Body. Without direction, he shall appear, and prosecute all cases for violation of the Municipal ordinances that have been appealed to, and are pending in any higher court. He shall also examine, when requested to do so by the Governing Body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The Governing Body shall have the right to compensate the Municipal Attorney for legal services on such terms as the Governing Body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the Municipality. *(Ref. 17-610 RS Neb.)*

**§ 1-208 APPOINTED OFFICIALS; MUNICIPAL POLICE CHIEF.**

The Municipal Police Chief shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He shall act as Health Inspector, and Building Inspector, except in the event the Municipality appoints another person. He shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal ordinances, or the laws of the State of Nebraska. *(Ref. 17-107, 17-121 RS Neb.)*

**§ 1-209 APPOINTED OFFICIALS; MUNICIPAL POLICEMAN.**

The Municipal Police, whether regular, or special shall have the power to arrest all offenders against the laws of the State of Nebraska, or the Municipality, by day or by night, and keep the said offenders in the Municipal jail, or some other place to prevent their escape until trial can be held before the proper official of the State of Nebraska, or the Municipality. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every Municipal Policeman shall be expected to be conversant, and knowledgeable with the Municipal and State laws and no law enforcement official shall have any interest in any establishment having a liquor license. Municipal Policemen shall have the duty to file such complaints and reports as may be required by the Municipal ordinances, and the laws of the State of Nebraska. Any Municipal Policeman who shall willfully fail, neglect, or refuse to make an arrest, or who purposely, and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. It shall be unlawful for the Governing Body to retain any Municipal Policeman in that position after he shall have been duly convicted of the willful violation of any law of the United States of America, the State of Nebraska, or any ordinance of the Municipality, except minor traffic violations. It shall be the duty of every Municipal Policeman making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners aforesaid shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the Municipal Police by the Municipality. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he shall immediately deliver his badge to the Police Chief. The Governing Body may from time to time provide the Municipal Police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. *(Ref. 17-118, 17-124 RS Neb.)*

**§ 1-210 APPOINTED OFFICIALS; MUNICIPAL FIRE CHIEF.**

The Municipal Fire Chief shall be elected by the members of the Fire Department. He shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his jurisdiction. He shall, on or before the first (1st) day in April and October of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. The Governing Body shall purchase Workmen's Compensation Insurance, and a group term life insurance policy for each active volunteer fireman. Said life insurance policy will provide a minimum of five thousand (\$5,000.00) dollars for death from any cause to age sixty-five (65) and shall at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty-five (65). He shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by

the Fire Chief or Assistant Fire Chief. The Fire Chief, or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers. (*Ref. 17-147, 17-505, 35-102, 35-108, 81-506, 81-512 RS Neb.*)

#### **§ 1-211 APPOINTED OFFICIALS; SPECIAL ENGINEER.**

The Governing Body may employ a special engineer to make or assist the Municipal Engineer in making any particular estimate, survey, or other work. The special engineer shall make a record of the minutes of his surveys and all other work done for the Municipality. He shall, when directed by the Governing Body, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. All records of the special engineer shall be public records which shall belong to the Municipality, and shall be turned over to his successor. (*Ref. 17-405, 17-568, 17-568.01, 17-919 RS Neb.*) (*Amended by Ord. No. 496, 10/4/83*)

#### **§ 1-212 APPOINTED OFFICIALS; MUNICIPAL STREET SUPERINTENDENT.**

The Municipal Street Superintendent shall, subject to the orders and directives of the Governing Body, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the Municipality, and shall perform such other duties as the Governing Body 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 Governing Body make a detailed report to the Governing Body on the condition of the streets, sidewalks, culverts, alleys, and bridges of the Municipality, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory street system in the Municipality along with an estimate of the cost thereof. He shall issue such permits, and assume such other duties as the Governing Body may direct. The Municipal Street Superintendent may be removed at any time by a two-thirds (2/3) vote of the Governing Body. (*Ref. 17-107, 17-119 RS Neb.*)

#### **§ 1-213 APPOINTED OFFICIALS; MUNICIPAL UTILITIES SUPERINTENDENT.**

A Utilities Superintendent shall be appointed in the event that there is more than one Municipal utility, and the Governing Body determines that it is in the best interest of the Municipality to appoint one official to have the immediate control over all the said Municipal utilities. The Utilities Superintendent may be removed for good cause by a two-thirds (2/3) vote of the Governing Body and

any vacancy occurring in the said office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all Municipal officials. (*Ref. 17-541 RS Neb.*)

**§ 1-214 APPOINTED OFFICIALS; MUNICIPAL BUILDING INSPECTOR.**

The Municipal Building Inspector shall conduct surveys and make inspections in any area of the Municipality to determine whether all buildings and structures are in compliance with the Municipal ordinances. He shall investigate all complaints whether they are verbal, written, or in the form of a petition alleging, and charging that a violation of the Municipal ordinances exists, and that a building, or structure is unfit, or unsafe for human habitation. The Building Inspector is authorized upon properly identifying himself to enter, inspect, survey, and investigate between the hours of eight (8:00) o'clock A.M., and five (5:00) o'clock P.M., or at any time if an emergency exists, or if requested by the owner, or occupant thereof. He shall keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection, and he shall prepare an annual report including statistics based on the records kept. The Building Inspector shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he is the owner of a building, and he shall not act as an agent for any said dealer, or as an agent for the sale, lease, or rental of any real estate. The Building Inspector shall report to the Governing Body as often as they may deem necessary, and shall have such other duties, and issue such permits as they may direct. The Building Inspector may be removed at any time for good, and sufficient cause by the Governing Body.

**§ 1-215 APPOINTED OFFICIALS; MUNICIPAL ELECTRICAL INSPECTOR.**

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

**§ 1-216 APPOINTED OFFICIALS; MUNICIPAL PLUMBING INSPECTOR.**

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

issue any permits that the Governing Body may direct. The Plumbing Inspector may be removed at any time for good and sufficient cause by the Governing Body.

**§ 1-217 APPOINTED OFFICIALS; ZONING INSPECTOR.**

The Mayor may appoint a Zoning Inspector. In the absence of a specific appointment by the Mayor, the Building Inspector is hereby designated as Zoning Inspector.

**§ 1-218 TREE COMMISSIONER; CREATION AND ESTABLISHMENT.**

There is hereby created and established a City Tree Commissioner for the City of Milford, Nebraska, who shall be appointed by the Mayor, with the approval of the City Council. (*Ord. No. 830, 11/3/09*)

**§ 1-219 TREE COMMISSIONER; TERM, COMPENSATION, DUTIES AND RESPONSIBILITIES.**

The term of the Tree Commissioner to be appointed by the Mayor shall be one (1) year. It shall be the responsibility of the Tree Commissioner to study, investigate, counsel and develop a written plan for replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented to the City Council and upon their acceptance and approval, shall constitute the official comprehensive City tree plan for the City of Milford, Nebraska. The Tree Commissioner shall review annually and update, if needed, the comprehensive City tree plan. The Tree Commissioner shall prepare and present an annual work plan to the City Council for their acceptance and approval. The Tree Commissioner, when requested by the City Council, shall consider, investigate, make findings, reports and recommendations upon any special matter(s) of questions coming within the scope of its work. (The Mayor may appoint an ad hoc citizen advisory committee to assist the Tree Commissioner). (*Ord. No. 830, 11/3/09*)

**§ 1-220 TREE COMMISSIONER; DEFINITIONS.**

**LARGE TREES.** Trees which by their nature attain heights greater than forty-five (45) feet at maturity.

**MEDIUM TREES.** Trees which by their nature normally attain heights of from twenty-five (25) to forty-five (45) feet at maturity.

**PARK TREES.** Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access.

**SMALL TREES.** Trees which by their nature do not normally attain heights greater than twenty-five (25) feet at maturity.

**STREET TREES.** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City. (*Ord. No. 830, 11/3/09*)

**§ 1-221 TREE COMMISSIONER; TREE SPECIES TO BE PLANTED.**

The City Tree Commissioner shall establish and maintain a list of tree species which shall constitute the official street tree species for the City. Said list shall be reviewed on an annual basis by the Governing Body, and a copy of the listing of official street tree species for the City shall be maintained on file with the City Clerk and said list shall be made available to any person upon request. (*Ord. No. 830, 11/3/09*)

**§ 1-222 TREE COMMISSIONER; TREES; DISTANCE FROM UTILITY LINES.**

No street trees or park trees other than those species listed as small trees in sections 1-218 through 1-233, or species specifically approved by the Municipal Tree Commissioner, may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility, line, wire or main. No street tree shall be planted within ten feet (10) of any fire hydrant. (*Ord. No. 830, 11/3/09*)

**§ 1-223 TREE COMMISSIONER; TREES; CARE AND REMOVAL.**

(A) The Municipality shall have the right, after notifying the property owner(s) and allowing sufficient time for them to eliminate the problem(s), to plant, prune, maintain or remove street trees or park trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds and after approval by the Tree Commissioner. The Municipal Tree Commissioner may, after notifying the property owner(s) and allowing sufficient time for them to eliminate the problem(s), cause or order to be removed any street tree or park tree or part thereof which is in an unsafe condition or which, by reasons of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(B) The utility companies may remove, at their expense, trees or parts thereof which are injurious to their utility lines, after negotiating with the property owner(s). No person or property owner shall

remove any live street tree or park tree for any reason without written permission of the Municipal Tree Commissioner. Provided, however, when said utility companies confront an emergency situation, they will have the authority to trim or remove the trees or parts thereof at their own discretion and expense. *(Ord. No. 830, 11/3/09)*

**§ 1-224 TREE COMMISSIONER; TREE TOPPING.**

It shall be unlawful as a normal practice for any person, firm, or Municipal department to top any street tree, park tree or other tree on public property. **TOPPING** is defined as the severely cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from sections 1-218 through 1-233 at the determination of the Municipal Tree Commissioner. *(Ord. No. 830, 11/3/09)*

**§ 1-225 TREE COMMISSIONER; OBSTRUCTION, PRUNING, REMOVAL.**

All trees and shrubs within the Municipality shall be pruned or removed when such trees or shrubs obstruct the light from any street lamp, obstruct the visibility of any traffic control device or sign, obstruct the passage of pedestrians on sidewalks, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be fourteen (14) feet on all arterial and collector streets and eleven (11) feet on all residential streets and seven (7) feet over sidewalks. All shrubs and hedges defined as street trees in sections 1-218 through 1-233 shall be kept trimmed by the abutting property owner at least one (1) foot back from all curbs, sidewalks, driveways or alleys; and the same shall at all times be kept trimmed to a height not greater than thirty (30) inches above the top of the curb unless the Municipal Tree Commissioner, for other than corner lots, determines that a greater height would not constitute a hazard to pedestrian or vehicular traffic. The Municipal Tree Commissioner shall notify, in writing, the owners of such trees or shrubs on private property. Pruning shall be done by said owners at their own expense within sixty (60) days after the date of notification. In the event of failure of owners to comply with said notice, the Municipality shall have the authority to prune said trees or shrubs and assess the cost of said pruning to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner as provided by law. *(Ord. No. 830, 11/3/09)*

**§ 1-226 TREE COMMISSIONER; DEAD OR DISEASED TREES, PRUNING, REMOVAL.**

All trees and shrubs within the Municipality shall be pruned or removed when such trees or shrubs constitute a hazard to life and property, or harbor insects or disease which constitutes a threat to other

trees or shrubs within the City. The Municipal Tree Commissioner shall have the power and authority to prune or remove, or order to prune or remove, any such trees or shrubs on private property. The Municipal Tree Commissioner shall notify, in writing, the owners of such trees or shrubs. Pruning or removal shall be done by said owners at their own expense within sixty (60) days after the date of notification. In the event of failure of owners to comply with said notice, the Municipality shall have the authority to prune or remove said trees or shrubs and assess the cost of said pruning to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner as provided by law. (*Ord. No. 830, 11/3/09*)

**§ 1-227 TREE COMMISSIONER; WORK ORDERED OR DONE BY THE CITY.**

(A) Written permission shall not be required for any tree, shrub or hedge planting, pruning, spraying or removing ordered or done by the City; however, all such work shall be done in conformance with the requirements of sections 1-218 through 1-233. The City of Milford Utility Department is responsible for maintaining adequate clearance from trees and branches approaching overhead primary, secondary and service electrical lines. The City Street Department is similarly responsible for insuring that the City's streets, alleys and walkways are clear of any trees, branches or shrubs which could obstruct the path or sight distance of the motorist and/or pedestrian.

(B) The City is also cognizant of the fact that trees serve an important aesthetic and energy saving purpose for the residents of the City. It is therefore necessary to establish clear and specific rules regulating how the trimming and/or removal of trees and shrubs is to be implemented when necessary.

(1) *Notices to residents.* When it is determined that a tree or shrub requires trimming or removal, the City shall deliver or mail by means of certified mail, return receipt requested, to the owner or tenant of the abutting or affected property a notice advising him/her of the problem, the approximate location, and the suggested remedy. In addition, the notice shall advise the owner/tenant that he/she has ten (10) days in which to contact the City if questions or objections concerning the action exist; and that if no contact is made with City personnel during this time, the City will proceed with the project as described in the notice. The notice, as described above, shall apply to all cases, except when an emergency exists or when it is necessary to remove a tree or branches in order to restore electrical service or to open up a street blocked by a tree or branch.

(2) *Removal of trees or shrubs.* Trees shall be taken out only if the following conditions exist:

(a) If the tree of concern is dead or affected by disease to the extent that it could not survive on a long-term basis.

(b) If the tree or shrub of concern is located in such a position that it cannot be trimmed properly to resolve the problem, without ruining its aesthetic appearance.

(3) *Trimming of trees or shrubs.* If in the opinion of City personnel it is necessary and feasible to trim a tree or shrub, trimming shall be completed in the following manner:

(a) Tree branches affecting overhead power lines shall be trimmed back from the power line a minimum of forty-eight (48) inches.

(b) Tree branches nearer to a street or sidewalk than the standards set forth herein or adopted by said Tree Commissioner shall be trimmed back to a point which meets these standards.

(c) Wherever feasible, branches shall not be stubbed in the middle of a branch; rather the branch shall be trimmed at that point where it joins with a greater sized branch of the trees.

(4) *Removal of branches.* Trees, branches and shrubs taken down by the City shall be removed from the property as soon as is practical after they have been felled. In no case shall the timber be left on the property longer than five (5) working days after the trimming took place.

(5) *Appeal of conflicts between City personnel and property owner or tenant.* If a property owner and/or tenant objects to the action proposed by City personnel and efforts to mutually resolve the objection between the parties involved fail, the City's Governing Body shall serve as a Hearing Board to resolve the dispute. Appeal to the Governing Body shall be made in writing to the City Clerk/Treasurer's office. When an appeal is filed, City personnel shall take no further action to trim or remove the tree or shrub until the Governing Body has acted on the appeal. The Governing Body shall hear all appeals of this nature within thirty (30) days after it has been filed with the City Clerk/Treasurer.

(6) *Applicability of tree policy for trees located on private property and on public property.* The above policies shall be applicable to trees and shrubs located on private property, as well as those located on public property, rights-of-way and easements.

(7) *Removal of stumps.* If a tree must be removed, the City will be responsible for removing the stump. Stumps are generally removed once a year, usually in October or November of the year. All stumps from trees removed from the City shall be removed within one (1) year of tree being removed. (Ord. No. 830, 11/3/09)

#### **§ 1-228 TREE COMMISSIONER; ABUSE OR MUTILATION.**

Unless specifically authorized by the Municipal Tree Commissioner, no person shall intentionally damage, cut, carve, transplant or remove any street tree or park tree; attach any rope, wire, nails, advertising posters or other contrivance to such trees; allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices. (Ord. No. 830, 11/3/09)

**§ 1-229 TREE COMMISSIONER; PROTECTION OF TREES.**

All street trees or park trees near any excavation or construction of any building, structure or street work, shall be guarded with a substantial fence, frame or box not less than four (4) feet high and eight (8) feet square and all construction materials, soil or other debris shall be kept outside the barrier. This shall be the responsibility of the persons or firms doing the construction work. No person shall excavate any ditches, tunnels, trenches or lay any drive within ten (10) feet of any street or park tree without first obtaining written permission from the Municipal Tree Commissioner. No person shall deposit, place, store or maintain upon any public property of the Municipality, any stone, brick, sand, soil, concrete or other material which may impede the free passage of water, air and fertilizer to the roots of any street tree or park tree, except by written permission of the Municipal Tree Commissioner. (*Ord. No. 830, 11/3/09*)

**§ 1-230 TREE COMMISSIONER; REMOVAL OF STUMPS.**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (*Ord. No. 830, 11/3/09*)

**§ 1-231 TREE COMMISSIONER; REVIEW BY THE GOVERNING BODY.**

The City Council of the Municipality shall have the right to review the conduct, acts and decisions of the Municipal Tree Commissioner. Any person may appeal any ruling or order of the Municipal Tree Commissioner to the Governing Body who may hear the matter and make final decision. (*Ord. No. 830, 11/3/09*)

**§ 1-232 TREE COMMISSIONER; REMOVAL OF STREET OR PARK TREES WITHOUT PERMISSION.**

It shall be unlawful for any person or property owner to remove any street tree or park tree for any reason without written permission of the Municipal Tree Commissioner. Upon conviction, the penalty for said offense shall not be less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). (*Ord. No. 830, 11/3/09*)

**§ 1-233 TREE COMMISSIONER; ANNUAL ARBOR DAY EVENT.**

The Tree Commissioner, in conjunction with the Governing Body, shall plan and implement at least one (1) Arbor Day event per calendar year, for the purpose of promoting the planting of trees, or an award ceremony that honors leading tree planters. (*Ord. No. 830, 11/3/09*)



## ARTICLE 3: BONDS

### § 1-301 BONDS; REQUIREMENTS.

(A) The City may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The City may pay the premium for such bonds or insurance coverage. *(Ref. 17-604 RS Neb.)*

(B) (1) All official bonds of officers of the City shall be in form joint and several and made payable to the City in such penalty as the City Council may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality 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 law or by the City Council, and with such terms and conditions as may be required. *(Ref. 11-104 RS Neb.)*

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) Official bonds, with the oath endorsed thereon, shall be filed in the City Clerk's office within the following time:

(1) Of all appointed officers, within thirty (30) days after their appointment; and

(2) Of elected City officers, within thirty (30) days after the canvass of the votes of the election at which they were chosen. *(Ref. 11-105 RS Neb.)*

(D) All official bonds of City officers shall be executed by the principal named in such bonds and by at least two (2) sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a city officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety, or by two (2) or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a City officer. *(Ref. 11-109 RS Neb.)*

(E) The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases. *(Ref. 11-110 RS Neb.)*

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved. *(Ref. 11-111 RS Neb.)*

(2) No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the instrument by the Mayor and City Clerk pursuant to the approval of the City Council.

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. *(Ref. 11-112 RS Neb.)*

(H) No official bond shall be rendered void by reason of any informality of irregularity in its execution or approval. *(Ref. 11-113 RS Neb.)*

(I) No City official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required. *(Ref. 11-114 RS Neb.)*

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within ten (10) days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within the required time and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office. *(Ref. 11-115 RS Neb.)*

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. *(Ref. 11-116 RS Neb.)*

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over

by reason of the nonelection or nonappointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within ten (10) days from the time at which his or her successor, if elected, should have qualified. (*Ref. 11-117 RS Neb.*)

(M) No person shall be surety for the same officer for more than two (2) successive terms of the same office, but this provision shall not apply to incorporated surety companies. (*Ref. 11-118 RS Neb.*)

(N) If the sureties on the official bond of any appointed 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 officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, 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 office. (*Ord. No. 799, 3/4/08*)



## **ARTICLE 4: CORPORATE SEAL**

### **§ 1-401 SEAL; OFFICIAL CORPORATE.**

The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "City of Milford, Seal, Nebraska." The Municipal 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 Governing Body and countersigned by the Municipal Clerk. (*Ref. 17-502 RS Neb.*)



## **ARTICLE 5: MEETINGS**

### **§ 1-501 MEETINGS; DEFINED.**

Meetings, as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (*Ref. 84-1409(2) RS Neb.*) (*Ord. No. 389, 12/16/75*) (*Amended by Ord. No. 497, 10/4/83*)

### **§ 1-502 MEETINGS; PUBLIC BODY DEFINED.**

Public Body as used in this Article shall mean:

(A) The Governing Body of the Municipality,

(B) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law, and

(C) Advisory committees of the bodies listed above.

This Article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (*Ref. 84-1409(1) RS Neb.*) (*Ord. No. 389, 12/16/75*) (*Amended by Ord. Nos. 497, 10/4/83; 615, 5/4/93*)

### **§ 1-503 MEETINGS; PUBLIC.**

All public meetings as defined by law shall be held in a Municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Governing Body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the Governing Body and to the public by a method designated by the Governing Body or by the Mayor if the Governing Body has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four (24) hours before the scheduled commencement of the meeting or (b) forty-eight (48) hours before the scheduled commencement of a meeting of the Governing Body scheduled outside the corporate limits of the Municipality. The Governing Body shall have the right to modify the agenda to include items of

an emergency nature only at such public meetings. The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the Governing Body present or absent at each convened meeting. The minutes of the Governing Body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Governing Body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote. (*Ref. 84-1408, 84-1409, 84-1411, 84-1413 RS Neb.*) (*Amended by Ord. Nos. 389, 12/16/75; 497, 10/4/83; 548, 10/6/87*)

#### **§ 1-503.01 MEETINGS; AGENDA.**

Any member of the public requesting to place an item on the agenda for a meeting of the Mayor and Council shall fill out a written request to be placed upon such agenda on such form as shall be provided by the City Clerk. The request shall be filed with the City Clerk during regular office hours of the City Clerk. For regular meeting, all public agenda requests shall be filed not later than 12:00 noon on the Friday preceding the meeting. The closing time for public requests to add items to the Council agenda for special meetings shall be not less than seventy-two (72) hours prior to the scheduled meeting. No item shall be placed upon the agenda of any regular or special meeting later than the times specified herein except upon the approval of the Mayor, or in his absence, the President of the Governing Body. Except for items of an emergency nature, the agenda may not be modified within twenty-four (24) hours of a scheduled meeting of the Governing Body within the corporate limits of the Municipality, or within forty-eight (48) hours of a scheduled meeting of the Governing Body outside the corporate limits of the Municipality. The Governing Body shall have the right to modify an agenda at the meeting for items of an emergency nature which could not be placed upon the agenda within the time constraints of the Open Meetings Law. (*Ord. No. 674, 9/2/97*) (*Amended by Ord. Nos. 739, 3/7/03; 872, 3/5/13*)

#### **§ 1-504 MEETINGS; CLOSED SESSIONS.**

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

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

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

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

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

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

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

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

(5) 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. (*Ref. 84-1410 RS Neb.*) (*Ord. No. 389, 12/16/75*) (*Amended by Ord. Nos. 497, 10/4/83; 612, 5/4/93; 634, 6/6/95*)

#### **§ 1-505 MEETINGS; EMERGENCY MEETINGS.**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall



pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of section 1-508 of this Article 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. *(Ref. 84-1411 RS Neb.) (Ord. No. 389, 12/16/75) (Amended by Ord. No. 497, 10/4/83)*

#### **§ 1-506 MEETINGS; MINUTES.**

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

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

(3) Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier, except that the City may have an additional ten (10) working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. *(Ref. 84-1412, 84-1413 RS Neb.) (Ord. No. 389, 12/16/75)*

#### **§ 1-507 MEETINGS; 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. *(Ref. 17-616, 84-1413 RS Neb.) (Ord. No. 389, 12/16/75)*

#### **§ 1-508 MEETINGS; NOTICE TO NEWS MEDIA.**

The Municipal Clerk, in the case of the City Council, and the Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. *(Ref. 84-1411 RS Neb.) (Ord. No. 389, 10/16/75)*



**§ 1-509 MEETINGS; PUBLIC PARTICIPATION.**

Subject to the provisions of this Article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body except for closed meetings called pursuant to section 1-504 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to 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. No public body shall for the purpose of circumventing the provisions of this Article hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this State. An agency which contracts with Municipalities outside the State of Nebraska may hold meetings of any Committee outside the State of Nebraska if such meetings are held only in such contracting Municipalities. Final Action on any agenda item shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with sections 84-1408 to 84-1414 RS Neb. 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. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one (1) copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one (1) copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information. (*Ref. 84-1412, 18-2438 RS Neb.*) (*Ord. No. 389, 12/16/75*) (*Amended by Ord. Nos. 497, 10/4/83; 525, 10/1/85; 547, 10/6/87*)

**§ 1-510 MEETINGS; GOVERNING BODY.**

*(Repealed by Ord. No. 526, 10/1/85)*

**§ 1-511 MEETINGS; ORDER OF BUSINESS.**

All meetings of the Governing Body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Governing Body, the Municipal Clerk, the Mayor, and such other Municipal officials that may be required shall take their regular stations in the meeting place, and the business of the Municipality shall be taken up for consideration, and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.



**§ 1-512 MEETINGS; PARLIAMENTARY PROCEDURE.**

The Mayor shall preserve order during meetings of the Governing Body and shall decide all questions of order, subject to an appeal to the Governing Body. When any person is called to order, he shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking shall rise from his seat and address himself to the presiding officer and while speaking shall confine himself to the question. When two (2), or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the Municipal Clerk, or any member of the Governing Body. Every member of the Governing Body who is present when a question is voted upon, shall cast his vote unless excused by a majority of the Governing Body present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Governing Body making the motion, or resolution shall be entered also. After each vote, the "Yeas" and "Nays" shall be taken, and entered in the minutes upon the request of any member of the Governing Body. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the member of the Governing Body seconding the said resolution, motion, or ordinance. When, in the consideration of an ordinance, different times, or amounts are proposed, the question shall be put on the largest sum, or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third (3rd) regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of the Governing Body for meetings may be suspended by a two-thirds (2/3) vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the Governing Body shall decide all procedural disputes that may arise.

**§ 1-513 MEETINGS; CHANGE IN OFFICE.**

The change in office shall be made as follows: The Mayor and Council shall meet on the first regular meeting date in December of each year in which a Municipal election is held and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his successor in office all property, records, papers and moneys, belonging to the same. (*Ref. 17-107.02(9) RS Neb.*) (*Amended by Ord. No. 390, 12/16/75*)

**§ 1-514 MEETINGS; ORGANIZATIONAL.**

The newly elected Council shall convene at the regular place of meeting in the City on the first (1st) regular meeting in December of each year in which a Municipal election is held immediately after the



prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first (1st) regular meeting in December following his election. All appointive officers shall qualify within two (2) weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the Municipality and to perform faithfully and impartially the duties of his office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon. *(Amended by Ord. No. 386, 12/16/75)*

#### **§ 1-515 MEETINGS; REGULAR MEETING.**

The meetings of the Governing Body shall be held in the meeting place of the Municipality. Regular meetings shall be held on the first (1st) Tuesday of each month at the hour of seven-thirty o'clock (7:30) P.M.

At all meetings of the Council a majority of the Councilmembers shall constitute a quorum to do business. *(Ref. 17-105 RS Neb.) (Ord. No. 526, 10/1/85) (Amended by Ord. No. 594, 6/2/92)*

#### **§ 1-516 MEETINGS; SPECIAL MEETINGS.**

Special meetings may be called by the Mayor, or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the Councilmembers of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state, or physically unable to be present. A majority of the members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Councilmembers shall elect a President pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. *(Ref. 17-106 RS Neb.) (Ord. No. 526, 10/1/85)*





## **ARTICLE 6: ORDINANCES**

### **§ 1-601 ORDINANCES; GRANT OF POWER.**

The Governing Body shall have the responsibility of making all ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be necessary and proper for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and security. *(Ref. 17-505 RS Neb.)*

### **§ 1-602 ORDINANCES; INTRODUCTION.**

Ordinances shall be introduced by members of the Governing Body in either of the following ways:

(1) With the recognition of the Mayor, a Councilman may rise in his place and in the presence and hearing of a majority of the members elected to the Council read aloud the substance of his proposed ordinance and file a copy of the same with the Municipal Clerk for future consideration;

(2) Or with the recognition of the Mayor, a Councilman may present his proposed ordinance to the Clerk who in the presence and hearing of a majority of the members elected to the Council, shall read aloud the substance of the same and shall file the same for future consideration.

### **§ 1-603 ORDINANCES; 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 (1) time in the presence and hearing of a majority of the members elected to the Council. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

### **§ 1-604 ORDINANCES; STYLE.**

The style of all Municipal ordinances shall be:

"Be it ordained by the Mayor and Council of the City of Milford, Nebraska:" *(Ref. 17-613 RS Neb.)*

**§ 1-605 ORDINANCES; TITLE.**

No ordinance shall contain a subject not clearly expressed in its title. *(Ref. 17-614 RS Neb.)*

**§ 1-606 ORDINANCES; PASSAGE.**

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the members of the Governing Body. Ordinances of a general or permanent nature shall be read by the title on three (3) different days unless three-fourths (3/4) of the Governing Body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths (3/4) of the Council may require any ordinance to be read in full before final passage under either process. *(Ref. 17-614 RS Neb.) (Amended by Ord. No. 635, 6/6/95)*

**§ 1-607 ORDINANCES; PUBLICATION OR POSTING.**

All ordinances of a general nature shall be published one (1) time within fifteen (15) days after they are passed in some newspaper published in the Municipality, or if no paper is published in the Municipality, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality. *(Ref. 17-613 RS Neb.)*

**§ 1-608 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING.**

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Municipality from the Municipal Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted. *(Ref. 17-613 RS Neb.)*

**§ 1-609 ORDINANCES; EMERGENCY ORDINANCES.**

In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the Mayor, and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency notice shall recite the emergency and be passed by a three-fourths (¾) vote of the Governing Body, and entered upon the Municipal Clerk's minutes. *(Ref 17-613 RS Neb.)*

**§ 1-610 ORDINANCES; AMENDMENTS AND REVISIONS.**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the

entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed. (*Ref. 17-614 RS Neb.*)



## **ARTICLE 7: ELECTIONS**

### **§ 1-701 ELECTIONS; GENERALLY.**

The Municipal primary and general election shall be held in accordance with the provisions of Chapter Thirty-two (32) Revised Statutes of Nebraska. Said elections shall be held in conjunction with the State Primary and General Election. Prior to February One (1) of the year in which the first (1st) such joint election takes place, the Governing Body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to state law. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for Municipal election purposes.

Commencing with the Statewide Primary Election in 1976, and every two (2) 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. (*Ref. 17-107.02(2), 32-505, 32-4,147 RS Neb.*) (*Amended by Ord. Nos. 391, 12/16/75; 429, 11/15/77*)

### **§ 1-702 ELECTIONS; EXTENSION OF TERMS.**

The term of office of any member of the Governing Body that would expire prior to the first regular Council meeting in December, 1976, is hereby extended to December, 1976.

The term of office of any member that would expire after December, 1976, but prior to the first regular Council meeting in December, 1978, is hereby extended to the first regular meeting in December, 1978. (*Ref. 17-107.02(2)(3) RS Neb.*) (*Ord. No. 391, 12/16/75*)

### **§ 1-703 ELECTIONS; PRIMARY ELECTION, NUMBER OF CANDIDATES FILING.**

If the number of candidates properly filed for nomination at the primary election does not exceed two (2) for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. (*Ref. 17-107.02(4) RS Neb.*) (*Ord. No. 391, 12/16/75*)

### **§ 1-704 ELECTIONS; PRIMARY ELECTION, WRITE-IN CANDIDATES.**

When the name of a candidate who did not file or become a petition candidate for nomination is

written in and voted for as a candidate for a Council member, such person shall not be entitled to a certificate of nomination at the statewide primary election nor have his name placed on the general election ballot unless he shall have received not less than twenty (20%) percent of the total votes cast for the candidate receiving the greatest number of votes in the precinct or ward or the candidate receiving the greatest number of votes of the at-large candidates, whichever the case may be, at the preceding election in which candidates were elected to serve the ward, or of the at-large candidates if the election was held at large. *(Ref. 17-107.02(6) RS Neb.) (Ord. No. 391, 12/16/75)*

#### **§ 1-705 ELECTIONS; TIE VOTES.**

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. *(Ref. 17-107.02(6) RS Neb.) (Ord. No. 391, 12/16/75)*

#### **§ 1-706 ELECTIONS; GENERAL ELECTION, PREPARATION OF BALLOT.**

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. *(Ref. 17-107.02(6)&(7) RS Neb.) (Ord. No. 391, 12/16/75)*

#### **§ 1-707 ELECTIONS; ELECTION TO TERMS.**

The candidates shall be placed on the general election ballot and 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. 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 names of the candidates shall be placed upon the general election ballot in the order of their filing. The term of office of all such members shall commence on the first regular meeting of the Council in December following their election. *(Ref. 17-107.02(8) RS Neb.) (Ord. Mp/ 391, 12/16/75) (Amended by Ord. No. 429, 11/15/77)*

#### **§ 1-708 ELECTIONS; FILING FEE.**

Prior to the filing of any nomination papers, there shall be paid to the Municipal Treasurer a filing fee which shall amount to one (1%) percent of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than five hundred (\$500.00)

dollars per year. No nominating papers shall be filed until the proper Municipal 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. (*Ref. 32-513 RS Neb.*) (*Amended by Ord. No. 420, 3/1/77*)

#### **§ 1-709 ELECTIONS; PRIMARY OR GENERAL, NOTICE.**

The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the Primary or General Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref. 32-402.01 RS Neb.*) (*Amended by Ord. Nos. 392, 12/16/75; 421, 3/1/77*)

#### **§ 1-710 ELECTIONS; JOINT, SPECIAL.**

In lieu of submitting a matter or issue at a separate special Municipal Election, the Municipality may submit such matter or issue at a statewide General or Primary Election or at a scheduled County Election or may request the County to conduct a special election. Such matter or issue must be certified by the Municipal Clerk to the County Clerk or Election Commissioner at least fifty (50) days prior to the election. The Municipal 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 or county election issues. (*Ref. 32-4,153, 32-4,154 RS Neb.*) (*Amended by Ord. No. 514, 10/2/84*)

#### **§ 1-711 ELECTIONS; PETITION CANDIDATES.**

Candidates for any Municipal office in the Municipality may be nominated by petition. Petitions shall contain signatures of registered voters totaling not less than ten percent (10%) of the total votes received by the candidate receiving the highest number of votes in the Municipality or ward at the preceding general election in which officers were last elected to such office. They shall be accompanied by a treasurer's receipt for the filing fees for the office being sought. All petitions shall provide a space at least two and one-half (2½") inches long for written signatures, a space at least two (2") inches long for printed names, and sufficient space for any additional information which may be required. Lines on such petitions shall not be less than one-fourth (¼") inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petition signers and petition circulators shall conform to the requirements of section 32-713 RS Neb. Petitions must be filed at least sixty (60) days prior to the State Primary. (*Ref. 32-4,156, 32-504, 32-513, 32-535, 32-713, RS Neb.*) (*Amended by Ord. No. 514, 10/2/84*)

#### **§ 1-712 ELECTIONS; COUNCILMEN.**

Councilmen shall be elected from the Municipality at large unless the residents of the Municipality have voted to elect its Councilmen by wards. Councilmen shall serve for a term of four (4) years and shall be a resident and qualified elector. If the election of Councilmen takes place by wards, each

nominee for Councilman shall be a resident and qualified elector of the ward for which he is a candidate, and only residents of that ward may sign the candidate's nomination petitions. (*Ref. 32-533, 32-554 RS Neb.*)

#### **§ 1-713 ELECTIONS; VOTER QUALIFICATIONS.**

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

#### **§ 1-714 ELECTIONS; OFFICIALS.**

The County Clerk shall at least fifteen (15) days prior to the State Primary Elections, give notice of the appointment by each political party of three (3) judges and two (2) clerks of election in each election unit in the Municipality, to be known as the Receiving Board. Each of the appointees referred to shall be of good character, approved integrity, well informed, able to read, write, and speak the English language, reside in the election precinct in which he is to serve, be entitled to vote in his election unit, and hold office for a term of two (2) years, or until judges and clerks of election are appointed for the next State Primary Election. (*Ref. 32-403 through 32-412 RS Neb.*) (*Amended by Ord. No. 422, 3/1/77*)

#### **§ 1-715 ELECTIONS; WARDS.**

The Municipality shall redistrict as often as necessary using the most recent Federal Census to insure that each ward is substantially equal in population. The Municipality shall remain divided into the following wards as set forth herein:

##### FIRST WARD

All that portion of the Municipality lying north of a line, as follows: Beginning at a point where the center line of 3rd Street intersects the west corporate limits of the City, thence east along the center line of 3rd Street to a point where the center line of 3rd Street intersects with the east corporate limits of the City.

SECOND WARD

All that portion of the Municipality lying south of the line as follows: Beginning at a point where the center line of 3rd Street intersects the west corporate limits of the City, thence east along the center line of 3rd Street to a point where the center line of 3rd Street intersects with the east corporate limits of the City. (*Amended by Ord. Nos. 588, 11/7/91; 719, 10/8/01; 846, 9/6/11*)

**§ 1-716 ELECTIONS; BALLOTS.**

It shall be the duty of the County Clerk to provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. (*Ref. 17-102 RS Neb.*)

**§ 1-717 ELECTIONS; CERTIFICATE OF ELECTION.**

After the canvass of the vote at the Municipal election, the Municipal 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 Municipality, and countersigned by the Municipal Clerk. The said certificate shall then be delivered to the persons so elected. (*Ref. 19-3040, 19-3041, 32-4,111, 32-4,152 RS Neb.*)

**§ 1-718 ELECTIONS; INABILITY TO ASSUME OFFICE.**

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

**§ 1-719 ELECTIONS; RECALL PROCEDURE.**

Any or all of the elected officials of the Municipality may be removed from office by the registered voters of the Municipality. Petition papers, to do such, shall be procured from and filed with the Municipal Clerk, who shall keep a sufficient number of such blank petition papers on file for distribution. An affidavit to procure such papers shall be made by one (1) or more registered voters and filed with the Municipal Clerk, stating the name and office of the officer or officers sought to be removed. The Clerk, upon issuing any petition paper, shall enter in a record, to be kept in his or her office, the name of the registered voter or voters to whom issued, the date of such issuance, and the number of papers issued and shall certify on the papers the name of the registered voter or voters to whom the papers were issued and the date they were issued.

Circulators of such petitions shall comply will all requirements of the Statutes of Nebraska. Such petition demanding that recall be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent (35%) of the total votes cast at the last General Municipal Election, except for an office where more than one (1) candidate is chosen in which case the petition shall be signed by registered voters equal in number to at least thirty-five percent (35%) of the number of votes cast for the person receiving the most votes for such office in the last General Election. If officers are elected by ward, only registered voters of that officer's ward may sign a recall petition or vote at the recall election.

All petitions shall be filed with the Clerk for signature verification as one instrument within thirty (30) days of issuance of the original petition papers. Within ten (10) 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 and shall attach to the petition a certificate showing whether any signatures need to be corrected in order to comply with the requirements of this section and State Statutes. If the Clerk finds incorrect signatures, he or she shall promptly notify the person filing the petition that the petition may be cured at any time within ten (10) days after the giving of such notice by the filing of a supplementary petition, with the corrected signatures, on additional petition papers issued and filed as provided for the original petition. No new signatures may be added after the initial filing of the petition and no signatures may be removed unless the Clerk receives an affidavit signed by the person requesting his or her signature be removed. The Clerk shall, within five (5) days after any correction, examine the corrected petition and attach a certificate as in the case of the original petition. If the certificate shows the corrected petition to be insufficient or if no correction was made, the Clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

If the petition or corrected petition is found to be sufficient, the Clerk shall attach to the petition a certificate showing the result of such examination and shall notify the officer whose removal is sought. If the officer does not resign within five (5) days after the notice, the Clerk shall submit, within ten (10) days after the five (5) day period has elapsed, the original petition and supplement, together with his or her certificates, to the Governing Body. Upon receipt of such petition and certificate, the Governing Body shall order an election to be held not less than thirty (30) nor more than forty-five (45) days after the five (5) day period, except that if any other election is to held in that district within ninety (90) days of the five (5) day period the Governing Body may provide for the holding of the removal election on the same day.

No recall petition shall be filed against members of the Governing Body within twelve (12) months after a recall election has failed to remove him or her from office or within six (6) months from the end of his or her term of office. *(Ref. 32-1401 through 32-1408 RS Neb.) (Ord. No. 454, 10/2/79) (Amended by Ord. No. 514, 10/2/84)*

**§ 1-720 ELECTIONS; CANDIDATE QUALIFICATIONS.**

Any person seeking elected office in the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The Mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. *(Ref. 17-108.02, 32-4,157 RS Neb.) (Ord. No. 514, 10/2/84)*



## **ARTICLE 8: FISCAL MANAGEMENT**

### **§ 1-801 FISCAL MANAGEMENT; FISCAL YEAR.**

The fiscal year of the Municipality for the purposes of taxation and appropriations, shall begin the first (1st) day in August of each year. (*Ref. 17-701 RS Neb.*)

### **§ 1-802 FISCAL MANAGEMENT; BUDGET STATEMENT.**

The Governing Body shall, not later than the first (1st) day of August of each year on forms prescribed and furnished by the Nebraska State Auditor, prepare in writing and file with the Municipal Clerk a proposed budget statement containing the non-tax revenue which was allocated to each of the several funds, the unencumbered cash balance of each fund at the beginning and end of the prior fiscal year, the amount received by taxation allocated to each fund, and the actual expenditures for each fund. For the current fiscal year, the budget statement shall contain the actual and estimated revenue from non-tax sources, the actual unencumbered cash balance available at the beginning of the year, the amount to be received from taxation allocated to each fund, and the amount of actual and estimated expenditures. For the immediate ensuing fiscal year, the budget statement should include an estimate of the non-tax revenue from each source and which fund it is to be allocated to, the actual or estimated unencumbered cash balance for each fund which will be available at the beginning of the next fiscal year, amounts proposed to be expended during the year, and the amount of cash reserve which shall not exceed fifty (50%) percent of the total budget adopted exclusive of capital outlay items. The amount to be raised from taxation, as determined herein, plus the estimated revenue from sources other than taxation, and the unencumbered balances shall equal the estimated expenditures plus the required cash reserve for the ensuing year. (*Ref. 23-923, 23-924 RS Neb.*)

### **§ 1-803 FISCAL MANAGEMENT; BUDGET HEARING.**

Subsequent to the filing of the proposed budget statement, the Governing Body shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality. After such hearing, the statement shall be adopted, or amended, and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty (20) days after its adoption. (*Ref. 23-925 RS Neb.*)

**§ 1-804 FISCAL MANAGEMENT; BUDGET FILING.**

The Governing Body shall file with, and certify to the levying board on, or before September First (1st) and file with the Nebraska State Auditor a copy of the adopted budget statement, together with the amount of the tax to be levied and proof of publication. The Governing Body shall not certify any tax that exceeds the maximum levy prescribed by State law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding five (5%) percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (*Ref. 23-927 RS Neb.*)(*Amended by Ord. No. 430, 11/15/77*)

**§ 1-804.01 FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET.**

(1) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the Governing Body in September, the Governing Body may expend any balance of cash on hand for the current expenses of the Municipality. Except as provided in subsection (2) 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.

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the Governing Body that expenditures beyond the amount authorized are necessary to enable the Municipality 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 Governing Body 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 Municipality in excess of that authorized by any other statutory provision. (*Ref. 13-509.01, 13-509.02 RS Neb.*) (*Ord. No. 637, 6/6/95*)

**§ 1-804.02 FISCAL MANAGEMENT; PUBLIC FUNDS DEFINED.**

Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (*Ref. 13-503 RS Neb.*) (*Ord. No. 636, 6/6/95*)

**§ 1-805 FISCAL MANAGEMENT; BUDGET PROCEDURE.**

The Manual of Instructions for City/Village: Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

**§ 1-806 FISCAL MANAGEMENT; APPROPRIATIONS.**

The Governing Body shall, on or before August 15th, pass an ordinance to be termed The Annual Appropriation Bill, in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the Municipality, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance 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. *(Ref. 17-706 RS Neb.)*

**§ 1-807 FISCAL MANAGEMENT; GENERAL PROPERTY TAX.**

The Governing Body 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 Municipality 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. *(Ref. 17-702 RS Neb.)*

**§ 1-808 FISCAL MANAGEMENT; EXPENDITURES.**

No Municipal official shall have the power to appropriate, issue, or draw any order or warrant on the Municipal 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 Municipality shall exceed in any one (1) year the amount provided for that improvement in the adopted budget statement. *(Ref. 17-708 RS Neb.)*

**§ 1-809 FISCAL MANAGEMENT; CONTRACTS.**

(A) The Governing Body shall, before entering into any contract for labor, materials, or any public improvement which exceeds thirty thousand dollars (\$30,000.00) in cash as estimated by the Municipal Engineer, advertise for bids once each week for three (3) consecutive weeks in a legal newspaper of general circulation in the Municipality, or post a printed or written copy thereof in each of three (3) public places in the Municipality; provided that in case of a public emergency which is a serious danger to life, health or property, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths (3/4th) vote of the Governing Body.

(B) If after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract for any work or improvement, or if the bids received by the Governing Body contain a price which exceeds the estimated cost of the project, the Governing Body shall have the authority to negotiate a contract in an attempt to complete the proposed project at a cost commensurate with the given estimate.

(C) If the materials are such a nature that, in the opinion of the manufacturer with the concurrence of the Governing Body, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing Municipality, the Governing Body may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. *(Ref. 17-568.01, 17-613 RS Neb.) (Amended by Ord. Nos. 393, 12/16/75; 455, 10/2/79; 542, 1/13/87; 634, 9/6/94; 678, 10/7/97; 837, 11/10/10)*

#### **§ 1-810 FISCAL MANAGEMENT; ANNUAL AUDIT.**

The Governing Body shall cause an audit of the Municipal 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 Governing Body. The said audit shall be completed, and the annual audit report made not later than six (6) months after the close of the fiscal year. The accountant making the audit shall submit not less than three (3) copies of the audit report to the Governing Body. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, except in villages having a population of less than eight hundred (800), and the results of such audits shall appear separately in the annual audit report, and 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 Municipality as well as an opinion by the accountant with respect to the financial statements. Two (2) copies of the annual audit report shall be filed with the Municipal Clerk, and shall become a part of the public records of the Municipal Clerk's office, and will at all times thereafter, be open for public inspection. One (1) copy shall be filed with the Auditor of Public Accounts. *(Ref. 19-2901 through 19-2909 RS Neb.) (Amended by Ord. No. 431, 11/15/77)*

#### **§ 1-811 FISCAL MANAGEMENT; CLAIMS.**

All claims against the Municipality shall be presented to the Governing Body 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 Municipality in any action brought against it for an unliquidated claim which has not been presented to the Governing Body to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order, or warrant shall be drawn in excess of eighty-five percent (85%) of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the Municipal Treasury for the appropriate fund against which it is to be drawn; provided, that in the event there exists obligated funds from the Federal and/or State government for the general purpose of such warrant, then such warrant may be drawn in excess of eighty-five percent (85%), but not more than one hundred percent (100%) of the current levy for the purpose for which said warrant is drawn. *(Ref. 17-714, 17-715 RS Neb.)*

**§ 1-812 FISCAL MANAGEMENT; WARRANTS.**

All warrants drawn upon the Municipal Treasury must be signed by the Mayor and countersigned by the Municipal 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. (*Ref. 17-711 RS Neb.*)

**§ 1-813 FISCAL MANAGEMENT; TRANSFER OF FUNDS.**

The Governing Body may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Governing Body may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place, and time for the said hearing shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality. The published notice shall set forth the time, and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the Governing Body, the Governing Body shall file with the County Clerk and the Nebraska State Auditor a copy of the supplemental budget, and shall certify the amount of additional tax to be levied. The Governing Body may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants," and shall be repaid during the next fiscal year from funds derived from taxes levied therefor. (*Ref. 23-928, 23-929 RS Neb.*)

**§ 1-814 FISCAL MANAGEMENT; SPECIAL ASSESSMENT FUND.**

All money received on special tax assessments shall be held by the Municipal 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 Municipality for money expended for any such improvement. (*Ref. 17-710 RS Neb.*)

**§ 1-815 FISCAL MANAGEMENT; SINKING FUNDS.**

The Governing Body, 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 Municipality 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 Municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by State law. To initiate the said sinking fund, the Governing Body shall declare its purpose by resolution to submit to the qualified electors of the Municipality the proposition to provide the improvement at the next general Municipal election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three (3) times on successive weeks before the day of the election in a legal newspaper of general circulation in the Municipality. 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 Governing Body may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable State law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the Governing Body 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 Governing Body is authorized to do so by sixty percent (60%) of the qualified electors of the Municipality voting at a general election favoring such a change in the use of the sinking fund. (*Ref. 19-1301 through 19-1304, 77-2337, 77-2339 RS Neb.*)

#### **§ 1-816 FISCAL MANAGEMENT; GENERAL FUND.**

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

#### **§ 1-817 FISCAL MANAGEMENT; DEPOSIT OF FUNDS.**

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

(B) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit



at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

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

(D) Section 77-2366 RS Neb. shall apply to deposits in capital stock financial institutions. Section 77-2365.01 RS Neb. shall apply to deposits in qualifying mutual financial institutions. *(Ref. 17-607, 77-2362 RS Neb.) (Amended by Ord. No. 755, 4/6/04)*

#### **§ 1-818 FISCAL MANAGEMENT; INVESTMENT OF FUNDS.**

Whenever a city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such city may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized by law and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. *(Ref. 17-608, 17-609, 21-1316.01, 77-2341 RS Neb.) (Amended by Ord. No. 568, 12/5/89)*

#### **§ 1-819 FISCAL MANAGEMENT; BOND ISSUES.**

The Governing Body 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 Governing Body 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. *(Ref. 10-201 through 10-411, 10-601 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, 23-343.13, 39-836 RS Neb.)*





## **ARTICLE 9: COMPENSATION**

### **§ 1-901 COMPENSATION; MUNICIPAL OFFICIALS.**

The Compensation of any elective official of the Municipality shall not be increased or diminished during the term for which he shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Governing Body, 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 resigns and desires to be rehired during the unexpired term of office. He may be rehired after the term of office during which he resigned at a greater salary. All salaries shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk. *(Ref. 17-108.02, 17-612 RS Neb.)*

### **§ 1-902 COMPENSATION; CONFLICT OF INTEREST INVOLVING CONTRACTS.**

(A) (1) **BUSINESS ASSOCIATION** means a business:

(a) In which the individual is a partner, limited liability company member, director, or officer; or

(b) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker. *(Ref. 49-1408 RS Neb.)*

(2) **IMMEDIATE FAMILY** means a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes. *(Ref. 49-1425 RS Neb.)*

(3) **OFFICER** means:

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



- (b) Any elected municipal official.

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

(B) (1) Except as provided in sections 49-1499.04 or 70-624.04 RS Neb., no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefited thereby.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse, or child:

- (a) Has a business association with the business involved in the contract; or
- (b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(1) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(2) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who (1) has no business association with the business involved in the contract or (2) will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(F) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to (1) all employees or (2) all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(G) Section 49-14,102 RS Neb. does not apply to contracts covered by this section. *(Ref. 49-14,103.01 RS Neb.)*

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (a) through (e) of this division (H)(1) about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (a) Names of the contracting parties;
- (b) Nature of the interest of the officer in question;
- (c) Date that the contract was approved by the governing body;
- (d) Amount of the contract; and
- (e) Basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept. *(Ref. 49-14,103.02 RS Neb.)*

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. *(Ref. 49-14,103.03 RS Neb.)*

(J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest. *(Ref. 49-14,103.05 RS Neb.)*

(K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of such body may have an interest. *(Ref. 49-14,103.06 RS Neb.) (Amended by Ord. Nos. 498, 10/4/83; 515, 10/2/84; 535, 9/2/86)*

### **§ 1-903 RETIREMENT PLAN.**

(A) The Retirement Plan of the City of Milford, Nebraska attached to Ordinance 833 is made a part of and incorporated by reference into this section and said Retirement Plan is restated into this section, and said Retirement Plan is restated effective on April 6, 2010.

(B) The Mayor and Clerk are hereby directed to execute necessary documents to implement said Retirement Plan. *(Ord. No. 833, 4/6/10)*

## **ARTICLE 11: INTERGOVERNMENTAL RISK MANAGEMENT**

### **§ 1-1001 INTERGOVERNMENTAL RISK MANAGEMENT; AUTHORITY.**

The Governing Body and any one or more public agencies, as defined in section 44-4303 RS Neb., may make and execute an agreement providing for joint and cooperative action in accordance with sections 44-4301 through 44-4339 RS Neb., to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

1. General liability;
2. Damage, destruction, or loss of real or personal property, including but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
3. Errors and omissions liability; and
4. Workers' compensation liability.

*(Ref. 44-4301 through 44-4339 RS Neb.) (Ord. No. 549, 10/6/87)*



**ARTICLE 11: PENAL PROVISION**

**§ 1-1101 VIOLATION; PENALTY.**

*(Repealed by Ord. No. 703, 4/4/00)*

*For penalty provisions, see section 12-101 of Chapter 12.*



