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CHAPTER 30: CITY COUNCIL

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GENERAL PROVISIONS

§ 30.01 DUTIES.

(A) Members of the Council, the legislative and policy making branch of the city, shall devote so much of their time to the duties of their office as an efficient and faithful discharge thereof may require.

(B) They shall attend all meetings of the Council, unless lawfully excused therefrom by the Mayor or by a majority of the remaining members, and perform all duties which by the nature of their office they should reasonably perform, such as the passing of ordinances, resolutions and the investigation and

study of work done for the city according to the committees upon which they may severally be appointed by the Mayor.

(Prior Code, § 1-6-1)

§ 30.02 VACANCY; HOW FILLED.

In the event an office of Council member shall become vacant, through death, removal of residence or for any other cause, the Mayor shall appoint, with the approval of the Council, a resident of the ward to fill the unexpired portion of the term to serve until the next general election, at which time the unexpired term shall be filled by the regular election.

(Prior Code, § 1-6-2)

§ 30.03 PRESIDENT OF COUNCIL.

At the time of taking office, the Council shall elect one of its members President of the Council who shall preside at all meetings of the Council and perform all other duties of the Mayor in the absence of the Mayor; and, in the absence of the President, the Council shall elect one of its members to occupy his or her place temporarily, who shall be styled acting President of the Council, and the President and acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council and all actions of the President and acting President, while so acting, shall be binding upon the Council and upon the city as if performed by the Mayor.

(Prior Code, § 1-6-3)

Statutory reference:

Similar provisions, see Neb. RS 17-148

§ 30.04 COUNCIL MEETINGS.

(A) *Time.* Regular meetings of the City Council shall be held on the second Tuesday of each month, at 7:00 p.m.

(B) *Place.*

(1) All meetings of the City Council shall be held in the Council chambers in the City Hall unless the Council determines that an emergency or public convenience or necessity requires that a public meeting of the City Council be held elsewhere than in the Council chambers, in which case the meeting shall be held in a place as the City Council shall designate with respect to the particular meeting.

(2) The determination and the designation of the place of the meeting shall be made by the City Council at a meeting held not less than three days prior to the meeting to be held elsewhere than in the Council chambers.

(Prior Code, § 1-6-4) (Ord. 453, passed 4-9-1991; Ord. 684, passed 9-13-2005)

§ 30.05 SPECIAL MEETINGS; PROCEDURE FOR CALLING.

Special meetings may be called by the Mayor or any two Council members by filing with the City Clerk a written call therefor, stating the time of the meeting and its purpose. The rules concerning preparation of the agenda as contained in § 30.07 below shall apply to special meetings. (Prior Code, § 1-6-5) (Ord. 693, passed 9-12-2006)

§ 30.06 NOTICE.

(A) *Publications; posting.* The City Clerk shall cause notice of the regular meeting of the City Council to be published in a newspaper of general circulation in the city, one time not less than two days prior to the date on which the meeting is to be held. Notice of any special meeting of the City Council shall be published in a newspaper of general circulation in the city, one time not less than five days prior to the day on which the meeting is to be held or, at the election of the City Clerk, posted on the front door of the City Hall of the city and at least three other public places within the city at least 24 hours prior to the meeting. Notice of meetings of independent boards, commissions, bureaus, committees, Councils, advisory committees and other subunits of the city shall be posted on the front door of the City Hall of the city and at least three other public places within the city at least 24 hours prior to the meeting of the subunit. This shall include, but not be limited to, meetings of the City Planning Commission, Board of Adjustment, Library Board, Golf Course Committee, Park Committee and any other committees established by the City Council.

(B) *Service upon Council.* At the same time that notice of the special meeting is published or posted as the case may be, and at least 24 hours before a special meeting of the City Council, the City Clerk shall cause a copy of the notice to be delivered to each City Council member personally or by leaving at the usual place of residence of the City Council member within the city or at such other place within the city as the Council member shall previously have authorized by a written designation on file in the office of the City Clerk.

(C) *Content.* The notice shall state whether the meeting is a regular or a special meeting, the date, hour and place of the meeting and, if the meeting is to be held in a place other than the Council chambers in City Hall, the notice shall include the name and address of the building and identification by name, number or location of the room within the building in which the meeting is to be held. The notice shall also state that an agenda of the meeting kept continually current is available for public inspection at the office of the City Clerk, but that a majority of the elected members of the City Council may modify the agenda at the meeting to include additional matters which the City Council determines to be of an emergency nature.

(D) *Certificate of publication.* There shall be filed in the office of the City Clerk attached to a copy of each notice that has been published and posted and delivered to the members of the City Council, an affidavit of publication signed by an employee of the publisher having personal knowledge of the publication and a certificate of the City Clerk showing the places on which the notice was posted and showing delivery of copies to the members of the City Council as provided in division (B) above. (Prior Code, § 1-6-6) (Ord. 453, passed 4-9-1991; Ord. 468, passed 3-10-1992)

§ 30.07 AGENDA.

(A) *Availability.* An agenda of a forthcoming meeting of the City Council, kept continually current by the City Clerk, shall be available for public inspection at the office of the City Clerk from the time when notice of the meeting is published or broadcast and posted. The agenda may not be amended after 5:00 p.m. on the day preceding any regular meeting unless a majority of the members of the City Council determine other business to be added to the agenda to be of an emergency nature.

(B) *Certificate.* Subsequent to any meeting of the City Council there shall be filed in the office of the City Clerk a copy of the original agenda and any additions or changes thereto that were made together with a statement that the agenda was kept continually current and available for public inspection in the office of the City Clerk.

(Prior Code, § 1-6-7) (Ord. 453, passed 4-9-1991)

§ 30.08 REGULAR AND SPECIAL MEETINGS; ADJOURNMENT.

The City Council by a majority vote of all of the members of the City Council may adjourn or re-adjourn any regular or special meeting of the City Council to a specified date and hour which is prior to the next regular meeting of the City Council without further publication of notice.

(Prior Code, § 1-6-8) (Ord. 453, passed 4-9-1991)

§ 30.09 QUORUM; CONTINUOUS.

A majority of the members of the City Council for which provision is made by law or other ordinances shall constitute a quorum for the transaction of business, but a smaller number may adjourn or re-adjourn any regular or special meeting to a specified date and hour which is prior to the next regular meeting. Any hearing previously scheduled to be held at a meeting at which a quorum is not in attendance shall stand automatically continued to the same hour at the next regular meeting of the City Council unless the City Council at a special meeting held during the interim shall otherwise specifically direct. Once a member of the Council has appeared at a Council meeting, he or she shall be considered to be in attendance until the meeting is adjourned and if a member leaves the meeting, he or she shall be considered to be abstaining in the event of any vote taken in his or her absence.

(Prior Code, § 1-6-9) (Ord. 453, passed 4-9-1991)

§ 30.10 ABSTAINING FROM VOTE.

(A) Any member of the Council who is present at a meeting consisting of a quorum must vote in favor of a proposal in order to pass it, and if abstaining will be considered to have voted against the proposal.

(B) Any member present at a meeting who leaves after a motion is made on a proposed action, resolution or ordinance but before a vote is taken on a motion, shall not be considered to have voted on the motion.

(C) An affirmative vote of at least one-half of the elected members shall be required for the transaction of any business unless a greater vote is required by law.

(Prior Code, § 1-6-10) (Ord. 550, passed 2-13-1996)

Statutory reference:

Similar provisions, see Neb. RS 17-105

§ 30.11 ROLL CALL; CALL TO ORDER; PRESIDING OFFICER.

At the hour appointed for the meeting, the City Clerk shall proceed to call the roll and announce whether a quorum is present. Upon the appearance of a quorum at any meeting, the City Council shall be called to order by the Mayor or in his or her absence by the President of the Council. In the absence of both the Mayor and the President of the Council, the Council shall elect one of its members to serve as a temporary Chairperson who shall have all of the powers and duties of the Mayor or President of the Council.

(Prior Code, § 1-6-11) (Ord. 453, passed 4-9-1991)

SPECIFIC PROVISIONS

§ 30.25 NEWLY ELECTED OFFICERS.

At the first regular Council meeting in December following the general election at which the City Council members are elected, the City Clerk shall, before calling the roll, first report to the City Council the names of all Council members elected who have qualified and the report shall be spread upon the minutes of the meeting preceding the roll call. The new members shall thereupon take the oath of office.

(Prior Code, § 1-6-12)

§ 30.26 MAJORITY VOTES; TIE VOTES.

All ordinances, resolutions, orders for the appropriation or payment of money and appointments of officers, require for their passage or adoption the concurrence of a majority of all members elected to the Council. When the Mayor's vote shall be decisive and the Council is equally divided on any pending matter, legislation or transaction, the Mayor may vote. The Mayor, for the purpose of the vote, shall be deemed to be a member of the Council. The vote of the Mayor to break a tie is not sufficient for the passage or adoption of an ordinance or resolution unless at least one-half of all members elected to the Council, including the Mayor, vote in favor of the ordinance or resolution.

(Prior Code, § 1-6-13)

§ 30.27 PROCEDURES; QUESTIONS NOT PROVIDED FOR.

In the event of any question of procedure for which provision is not made in the ordinances of the city or statutes of the state, the new “Robert’s Rules Of Order” (New American Library, 1990) shall be the authority by which the Council is governed.

(Prior Code, § 1-6-14) (Ord. 453, passed 4-9-1991)

§ 30.28 ORDINANCE AND RESOLUTION.

As used in this code, the word **ORDINANCE** shall refer to a legislative act of a permanent nature, and the word **RESOLUTION** refers to a legislative act of a temporary nature. Executive and administrative acts which are not legislative in character shall not be considered to be ordinances or resolutions unless action by ordinance or resolution is specifically required by law for that action.

(Prior Code, § 1-6-15) (Ord. 453, passed 4-9-1991)

§ 30.29 MEDICAL FACILITIES OWNED BY THE CITY.

Medical facilities owned by the city, including the Chimney Rock Villa Nursing Home, and any medical clinic associated with the nursing home, shall be governed by the City Council.

(Ord. 702, passed 7-8-2008)

CHAPTER 31: OFFICIALS AND EMPLOYEES

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GENERALLY**§ 31.01 ATTORNEY; DUTIES.**

(A) Whenever, in the judgment of the Mayor and Council it shall be deemed necessary or expedient, the Mayor shall forthwith appoint an Attorney with the advice and consent of the Council. The Attorney shall be the general legal advisor of the Mayor and Council and shall:

(1) Commence, prosecute and defend all suits;

(2) Attend meetings and sittings of the Council; and

(3) Deliver, upon request, opinions upon any inquiry which may be required in the course of official business.

(B) In its discretion, the Council may employ an attorney both for substituted and supplemental services, or for special pieces of legal work, and pay for the same out of the General Fund for incidental purposes.

(Prior Code, § 1-10-1)

Statutory reference:

Similar provisions, see Neb. RS 17-610

§ 31.02 ENGINEER; DUTIES.

The City Engineer shall when requested by the Mayor or City Council make estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters, the improvement of streets, and the erection and repair of buildings and shall perform other duties as the City Council may require.

(Prior Code, § 1-16-1) (Ord. 583, passed 8-12-1997)

§ 31.03 APPOINTIVE OFFICERS; STANDING COMMITTEES.

(A) *Appointed officials.*

(1) There shall be appointed by the Mayor, with the consent of the Council, at the beginning of the Mayor's term of office, persons to fill the offices as follows: City Clerk/Treasurer, Attorney, Police Chief, Utilities Superintendent, Villa Administrator, Grounds Superintendent, Golf

Course/Clubhouse Manager and other officers as may, from time to time, be established by law or resolution of the Mayor and Council, who shall hold their offices until the end of the Mayor's term of office and until their successors are appointed and qualified unless sooner removed. If an appointment is made during the term of the Mayor, the appointment shall be for the balance of the term of the Mayor.

(2) All appointed officers may be removed by the Mayor.

(3) The Mayor and Council shall have the power to merge elective and appointive offices, where permitted by statute, so that one or more offices may be held by the same officer at the same time, provided however, the offices shall always be construed to be separate and the effect of the merger shall be limited to a combination of official duties only.

(4) The Mayor may appoint standing committees at the beginning of each municipal year. Two members of the City Council shall be members of each committee.

(B) *Appointive officials; salaries.* Appointive officers shall be paid salaries or other remuneration as the Council shall determine, from time to time, by resolution.

(Prior Code, §§ 1-5-1, 1-5-3) (Ord. 441, passed 8-14-1990; Ord. 471, passed 3-17-1992; Ord. 667, passed 1-13-2004; Ord. 738, passed 2-14-2012)

Statutory reference:

Similar provisions, see Neb. RS 17-108.02

§ 31.04 BONDS OF OFFICERS.

(A) No bond required to be given under the provisions of this section shall be deemed to be given or complete until the bond and its sureties are approved by the Mayor and Council.

(B) The following officers shall give bond for their respective offices with good and sufficient sureties in sums as follows:

(1) Treasurer: \$10,000. The Mayor and Council, by resolution, may require the treasurer to give additional bond equal to double the amount of money passing through the treasurer's hands.

(2) Other:

(a) The Mayor and Council may require a bond from any other officer conditioned in such sum as they may by resolution designate; and

(b) The premium on all bonds required by this section, if surety bonds are given, shall be paid out of the General Fund, or other funds of the city as the Mayor and Council shall designate.

(Prior Code, § 1-5-4)

§ 31.05 FISCAL AND MUNICIPAL YEAR.

(A) The fiscal year in this city shall commence on October 1 and extend through the following September 30 except as provided in the municipal proprietary function act.

(B) The municipal year of the city shall begin on the second Tuesday in December.
(Prior Code, § 1-5-5) (Ord. 582, passed 8-12-1997)

MAYOR**§ 31.15 ELECTION.**

The Mayor shall be elected for a term of four years at the general election held in the city and shall serve until a successor is elected and qualified.

(Prior Code, § 1-7-1)

Statutory reference:

Similar provisions, see Neb. RS 17-107

§ 31.16 POWERS AND DUTIES.

(A) The Mayor shall preside at all meetings of the Council, with the right to vote as provided in § 30.26 of this code.

(B) The Mayor shall have superintendence and control of all the officers and affairs of the city, and shall take care that the provisions of this code and all other laws of the city are complied with.
(Prior Code, § 1-7-2)

§ 31.17 VETO POWER.

(A) The Mayor shall have the power to veto or sign any ordinance passed by the Council; provided, any ordinance vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council.

(B) If the Mayor neglects or refuses to sign any ordinance, and returns the same with his or her objections in writing at the next regular meeting of the Council, the same shall become law without his or her signature.
(Prior Code, § 1-7-3)

§ 31.18 RECOMMENDATIONS TO COUNCIL.

The Mayor shall, from time to time, communicate to the Council information and recommend a measure as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort and general prosperity of the city.
(Prior Code, § 1-7-4)

§ 31.19 REPORTS OF OFFICERS.

The Mayor shall have the power when he or she deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers, and to make reports to the Council, in writing, touching any subject or matter pertaining to his or her office.
(Prior Code, § 1-7-5)

§ 31.20 TERRITORIAL JURISDICTION.

The Mayor shall have jurisdiction as may be vested in him or her by the provisions of this code, over all places within five miles of the corporate limits for the enforcement of any health or quarantine regulations, and shall have jurisdiction in all other matters, excepting taxation, within one-half mile of the corporate limits.
(Prior Code, § 1-7-6)

§ 31.21 VACANCY; DISABILITY.

In the case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the Council shall exercise the office of Mayor until the vacancy is filled or the disability is removed, or in case of temporary absence, until the Mayor returns.
(Prior Code, § 1-7-7)

§ 31.22 POSSE COMITATUS; POWER TO SUMMON.

The Mayor is hereby given authority to call on every male inhabitant in the city over 18 years of age and under the age of 50 years to aid in enforcing the law when the emergency exists.
(Prior Code, § 1-7-8)

Cross-reference:

General powers and duties, see § 31.16

§ 31.23 REMISSION OF FINES; PARDONS.

The Mayor shall have the power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the provisions of this code.

(Prior Code, § 1-7-9)

Statutory reference:

Similar provisions, see Neb. RS 17-110 through 17-117

CLERK**§ 31.35 ADMINISTRATIVE DEPARTMENT.**

(A) The Administrative Department is responsible for carrying out the details of the administration of the city offices to support the Mayor, City Council, City Clerk, City Treasurer, Utility Department, Planning Commission, Board of Adjustment, building and zoning functions.

(B) It includes the city's office staff, composed of the City Clerk, Deputy Clerk, City Treasurer, Deputy Treasurer, Senior Center Director, office assistants, janitors and any other personnel employed to assist the City Clerk, Treasurer, Mayor and City Council.

(C) The City Clerk is the head of the Administrative Department and all personnel of the Department will report to the City Clerk for administrative purposes.

(Prior Code, § 1-8-1) (Ord. 695, passed 2-13-2007)

§ 31.36 CITY CLERK; GENERALLY.

(A) The City Clerk shall have duties as are prescribed by law and city ordinances for the City Clerk and shall, in addition, manage the operation of the city office and supervise the employees of the Administrative Department.

(B) The City Treasurer shall have duties as are prescribed by law and the city ordinances for the City Treasurer and shall manage the operations of the city with reference to financial matters, bookkeeping, utility billing, payment of expenses, preparation of the budget and related matters.

(C) The Deputy City Clerk shall assist the City Clerk in the administration of those duties as directed by the City Clerk and the Mayor.

(D) The Deputy City Treasurer shall assist the City Treasurer in the completion of the Treasurer's duties as directed by the Treasurer and the Mayor.

(Prior Code, § 1-8-2) (Ord. 695, passed 2-13-2007)

§ 31.37 KEEPER OF SEAL.

The Clerk shall keep the seal of the city and shall duly attest thereby the Mayor's signature to all ordinances and all deeds and papers required to be attested, when ordered by the Mayor and Council, and all orders for money or warrants for the payment of money, and shall enter the same in numerical order in a book to be kept for that purpose.

(Prior Code, § 1-8-3)

§ 31.38 PUBLICATIONS.

Within 30 days after any meeting of the Council, he or she shall prepare and publish the proceedings of the Council in a legal newspaper, designated by the Mayor and Council, within the county, and the publication charge shall be paid and allowed as other claims against the General Fund.

(Prior Code, § 1-8-5)

§ 31.39 RECORD OF COUNCIL PROCEEDINGS.

The Clerk shall keep and preserve the proceedings of the Mayor and Council in two separate and distinct record books:

(A) "Minute record", wherein shall be recorded the miscellaneous and informal doings of the Mayor and Council; and

(B) "Ordinance record", wherein shall be recorded the formal proceedings of the Mayor and Council in the matter of passing, approving, publishing or posting and certifying to ordinances.

(1) The ordinance minutes shall be recorded in the "ordinance record" book on printed forms to be designated by the Mayor and Council.

(2) Hereafter, when single ordinances are introduced for the consideration of the Mayor and Council, reference shall be made in the "minute record".

(Prior Code, § 1-8-6)

Statutory reference:

Similar provisions, see Neb. RS 17-605

TREASURER

§ 31.50 DUTIES.

The Treasurer shall be custodian of all moneys belonging to the city; and shall:

(A) Keep a separate account of each and every fund or appropriation and the debits and credits belonging to the city; and

(B) Give every person paying money into the Treasury a receipt therefor specifying the date of payment, and on what account paid, and file copies of the receipts with the Treasurer's monthly reports made to the Mayor and Council.

(Prior Code, § 1-9-1)

Statutory reference:

Similar provisions, see Neb. RS 17-606

§ 31.51 WARRANT REGISTER.

The Treasurer shall:

(A) Procure and keep a warrant register which shall show in columns arranged for that purpose, the number, date and amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when the notice to the person in whose name the warrant is registered is mailed;

(B) Upon presentation of any warrant for payment, in the presence of the person making the presentation, enter the warrant in the warrant register for payment in the order of its presentation and, upon every warrant as presented and registered, shall endorse, "Registered for Payment" with the date of the registration and register number; and

(C) Sign the endorsement whereupon the warrant shall draw interest at the rate fixed by the Council by resolution from the date of registration until notice of payment shall be given to the holder as provided by law.

(Prior Code, § 1-9-2)

Statutory reference:

Similar provisions, see Neb. RS 17-606. 45-106 and 77-2201

§ 31.52 TREASURER'S REPORT.

(A) *Report required.* The Treasurer shall, at the end of each month, or more often if required by the Council:

(1) Render an account to the Council showing under oath the condition of the various accounts of the Treasury at the time of the accounts and the balance of money in the Treasury; and

(2) Accompany the accounts with a statement of all receipts and disbursements together with all warrants paid by the Treasurer, which warrants with any and all vouchers held by the Treasurer shall be filed with the Treasurer's accounts in the Clerk's office.

(B) *Failure to report.* If the Treasurer neglects or fails for the space of ten days from the end of each month to render the account required by this section, the office shall be declared vacant and the Council shall fill the vacancy by appointment until the next election for city officers.

(Prior Code, § 1-9-3)

Statutory reference:

Similar provisions, see Neb. RS 17-606

CHAPTER 32: TAX AND FINANCE

Section

Funds; Budget

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- 32.20 Sales and use tax established
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FUNDS; BUDGET

§ 32.01 CLASSIFICATION.

(A) All monies in the hands of the Treasurer and all monies hereafter coming into the possession of the city, or received by the Treasurer, shall be kept and disbursed under the following heads and allocated and accounted for under a system of bookkeeping adopted by the Mayor and Council:

- (1) General;
- (2) Streets;
- (3) Golf course;
- (4) Keno;
- (5) Debt service;

(B) Any unexpended balances in the several funds mentioned herein shall be re-appropriated according to law for municipal purposes at the time the annual estimate and the annual appropriation bill are made at the beginning of each municipal year; provided, however, the Treasurer may invest and transfer without re-appropriation, upon resolution of the Mayor and Council, surplus funds as permitted by state statute.

(Prior Code, § 1-15-1)

§ 32.02 OTHER MONIES.

All other moneys of the city not belonging to or included in the annual appropriation bill and not otherwise designated shall be held, kept and disbursed from the General Fund and shall be used for payment of all expenses and liabilities of the city as provided by order of the Council.

(Prior Code, § 1-15-2)

§ 32.03 RE-APPROPRIATION OF UNEXPENDED BALANCES.

(A) At the time of making the annual appropriation bill, the Mayor and Council may, if notice shall have been given in the annual estimate or yearly budget, re-appropriate any unexpended balance in any fund mentioned in § 32.01 above for the use of some other fund if there be no outstanding bonds, warrants or claims against the fund whose unexpended balance or portion thereof is sought to be re-appropriated.

(B) No sinking funds or interest funds on outstanding bonds or moneys in any fund required to meet depreciation, replacements or betterments reasonably contemplated shall ever be re-appropriated.

(C) In the event that no re-appropriation of funds is authorized, unexpended balances shall be carried forward and placed to the credit of the funds to which they belong when the books of the Treasurer are opened at the commencement of each fiscal year on the first Tuesday of May.

(Prior Code, § 1-15-3)

§ 32.04 DEPOSIT OF FUNDS.

The funds of the city shall be kept deposited by the Treasurer in any bank within the city designated by the Mayor and Council at the first regular meeting in May or at any other time when a change in depositories is desired as shall comply with the terms and conditions of this section subject at all times to the order, check or draft of the Treasurer. Before any money shall be deposited with any bank the Mayor and Council shall require that a surety bond shall be furnished to the city by the bank in such an amount as may be required by the city, conditioned for the safekeeping of the funds and for the payment thereof upon the order of the Treasurer; the bond, when given, shall be paid to the city at a rate upon daily balances as may be agreed upon at the beginning of each fiscal year but a rate not less than the rate upon like accounts deposited by the county; provided, in lieu of the bond the depository shall have full

authority to pledge the assets of the depository for the security and payment of all the deposits and accretions.

(Prior Code, § 1-15-4)

§ 32.05 ANNUAL BUDGET STATEMENT; ANNUAL APPROPRIATION BILL.

The City Council shall on or before October 1, 1996, and each year thereafter, adopt a budget statement pursuant to the Nebraska Budget Act, being Neb. RS 13-501 to 13-513, in the form of an ordinance, to be termed "The Annual Appropriation Bill", in which the City Council may appropriate sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the city. (Prior Code, § 1-15-5) (Ord. 539, passed 7-11-1995)

§ 32.06 CERTIFICATION OF TAX LEVY.

(A) The Mayor and Council shall annually at the time and in the manner provided by law, certify to the County Clerk the several amounts which are shown by the assessment roll for the year, including all amounts due upon legal and valid bonds outstanding against the corporation.

(B) The certificate shall contain the percentage or number of mills on the dollar of tax levied for all city purposes on the taxable property within the corporation for the year ensuing, as shown by the assessment roll for that year, including all special assessments and other taxes authorized by law.

(C) The amount of other taxes which may be certified, assessed and collected shall not exceed five mills on the dollar to defray the general and incidental expenses thereof, together with any special assessments or special taxes, or amounts which may be assessed as taxes according to law, and a sum as may be authorized by law for the payment of outstanding bonds and debts.

(Prior Code, § 1-15-7)

§ 32.07 EMERGENCY EXPENDITURES.

(A) Neither the Mayor and Council nor any department of the city shall add to the corporate expenditures in any one year anything over and above the amount provided for in the annual appropriation bid for that year, except as herein otherwise specifically provided. No expenditures for any improvement, to be paid out of the General Fund, shall exceed in any one year the amount provided for such an improvement in the annual appropriation bill; provided, however, that nothing herein contained shall prevent the Council from ordering, by a two-thirds vote of the members elected thereto, the repair or restoration of any improvement, the necessity for which is caused by any casualty or accident happening after the annual appropriation is made.

(B) The Council may, by a two-thirds vote of the members elected thereto, order the Mayor and Finance Committee to borrow a sufficient sum to provide for the expense necessary to be incurred in making any repairs or restoration of improvements, the necessity of which has arisen, as is mentioned

in this section, for a space of time not exceeding the close of the next fiscal year, which sum, and the interest, shall be added to the amount authorized to be raised in the next general tax levy, and embraced therein.

(Prior Code, § 1-15-8)

§ 32.08 JUDGMENTS; SATISFACTION OF.

Should any judgment be obtained against the city, the Mayor and Finance Committee, under the sanction of the Council, may borrow a sufficient amount of money to pay the same for a space of time not exceeding the close of the next fiscal year, which sum and interest shall, in like manner, be added to the amount authorized to be raised in the general tax of the next year, and embraced therein.

(Prior Code, § 1-15-9)

SALES AND USE TAX

§ 32.20 SALES AND USE TAX ESTABLISHED.

The electors of the city having approved at a special election held on April 23, 1991, the imposition of a sales and use tax of 1% upon the same transactions within the boundaries of the city on which the state is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, being Neb. RS 77-2701 to 77-27,135.01 and 77-27,228 to 77-27,236, as amended from time to time, the sales and use tax is hereby imposed.

(Prior Code, § 5-1-1) (Ord. 454, passed 4-29-1991)

§ 32.21 DISPOSITION OF MONIES.

The proceeds of the sales and use tax imposed by the city shall be used for property tax relief.

(Prior Code, § 5-1-2) (Ord. 454, passed 4-29-1991)

CHAPTER 33: POLICIES AND PROCEDURES

Section

Claims and Contracts

- 33.01 Procedure
- 33.02 Allowance of claims; payment
- 33.03 Appropriation prerequisite to contract
- 33.04 Estimates; advertisements for bids

Sexual Predator Residency Restrictions

- 33.30 Findings and intent
- 33.31 Definitions
- 33.32 Sexual predator residency restrictions; exceptions

CLAIMS AND CONTRACTS

§ 33.01 PROCEDURE.

(A) *Claims against city.* All liquidated and unliquidated claims and accounts payable against city shall:

- (1) Be presented in writing;
- (2) State the name and address of the claimant and the amount of the claim; and

(3) Fully and accurately identify the items or services for which payment is claimed or the time, place, nature and circumstances giving rise to the claim.

(B) *Time for filing.* As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. RS 13-903, the claimant shall file the claim within 90 days of the accrual of the claim in the office of the city.

(C) *Rejection notice.* The city shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.

(D) *Recovery of costs.* No costs shall be recovered against the city in any action brought against it for any claim or for any claim allowed in part which has not been presented to the City Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.

(Prior Code, § 1-14-1)

Statutory reference:

Similar provisions, see Neb. RS 17-714

§ 33.02 ALLOWANCE OF CLAIMS; PAYMENT.

Upon the allowance of claims by the Mayor and Council, the order for their payment must specify the particular fund or appropriation, and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn, unless there shall be sufficient money in the Treasury to the credit of the proper fund for its payment, and no claim shall be audited or allowed unless an order or warrant for the payment thereof shall be drawn.

(Prior Code, § 1-14-2)

Statutory reference:

Similar provisions, see Neb. RS 17-715

§ 33.03 APPROPRIATION PREREQUISITE TO CONTRACT.

No contract shall hereafter be made by the Mayor and Council or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure shall have been ordered by the Mayor and Council or not, unless an appropriation therefor shall have been previously made, except as otherwise provided by state statute.

(Prior Code, § 1-14-4)

Statutory reference:

Similar provisions, see Neb. RS 17-709

§ 33.04 ESTIMATES; ADVERTISEMENTS FOR BIDS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the city, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the City Council.

(B) Except as provided in Neb. RS 18-412.01, before the City Council makes any contract in excess of \$30,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer

and submitted to the City Council. In advertising for bids as provided in divisions (C) and (E) of this section, the City Council may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of the enlargement or general improvements.

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

(1) \$30,000 or less;

(2) \$60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) \$90,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) \$120,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the city, and if there is no legal newspaper published in or of general circulation in the city, then in some newspaper of general circulation published in the county in which the city is located, and if there is no legal newspaper of general circulation published in the county in which the city is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the city or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the city at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the City Council and entered of record.

(F) If, after advertising for bids as provided in this section, the City Council receives fewer than 2 bids on a contract or if the bids received by the City Council contain a price which exceeds the

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estimated cost, the City Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(G) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the City Council or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.
(Neb. RS 17-568.01)

(H) Any city bidding procedure may be waived by the City Council or Board of Public Works:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162; or

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503.
(Neb. RS 17-568.02)

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a city which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

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

PERSONAL PROPERTY. Includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease, or other contractual means.
(Neb. RS 18-1756) (Prior Code, § 1-14-5) (Ord. 581, passed 8-12-1997)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

SEXUAL PREDATOR RESIDENCY RESTRICTIONS

§ 33.30 FINDINGS AND INTENT.

(A) The state legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict the persons' place of residency as provided in the sexual predator residency restriction act.

(B) Sex offenders who prey on children and who are high risks to repeat the acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(C) It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

(Prior Code, § 6-9-1) (Ord. 691, passed 8-8-2006)

§ 33.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILDCARE FACILITY. A facility licensed pursuant to the Child Care Licensing Act.

RESIDE. To sleep, live or dwell at a place, which may include more than one location and may be mobile or transitory.

RESIDENCE. A place where an individual sleeps, lives or dwells, which may include more than one location and may be mobile or transitory.

SCHOOL. A public, private, denominational or parochial school which meets the requirements for state accreditation or approval.

SEX OFFENDER. An individual who has been convicted of a crime listed in Neb. RS 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act.

SEXUAL PREDATOR. An individual who is required to register under the Sex Offender Registration Act, who has been classified as level 3 because of a high risk of recidivism as determined by the state patrol under Neb. RS 29-4013 and who has victimized a person 18 years of age or younger. (Prior Code, § 6-9-2) (Ord. 691, passed 8-8-2006)

§ 33.32 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any sexual predator to reside within 500 feet from a school or childcare facility.

(B) *Measure of distance.* For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or childcare facility.

(C) *Penalties.* A person who violates this section shall be punished as provided generally in this code.

(D) *Exceptions.* This chapter shall not apply to a sexual predator who:

(1) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(2) Established a residence before July 1, 2006, and has not moved from that residence; or

(3) Established a residence after July 1, 2006, and the school or childcare facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Prior Code, § 6-9-3) (Ord. 691, passed 8-8-2006) Penalty, see § 10.99

CHAPTER 34: CIVIL DEFENSE

Section

- 34.01 Fire Department to cooperate with civil defense
- 34.02 Civil Defense Act adopted

§ 34.01 FIRE DEPARTMENT TO COOPERATE WITH CIVIL DEFENSE.

(A) The Fire Department shall forthwith move its fire and other emergency equipment and personnel outside the limits of the city and place them in immediate operation whenever ordered to do so by the State Civil Defense Agency and to a place as it shall direct, either in the event of an emergency as defined by the “Nebraska Emergency Management Act,” being Neb. RS 81-829.36 to 81-829.75, or in connection with any program for practice and training.

(B) The personnel of the Fire Department shall be considered as fully protected by the State Workmens Compensation Law in the course of any like movement and operation of the fire and other emergency equipment of the city; and the Mayor is ordered to forthwith arrange with the insurance carrier that the policy of insurance against liability of the city arising under the State Workmens Compensation Law shall be amended by a rider or otherwise so as to cover the movement and operation of the fire and other emergency equipment and personnel of the city, if the insurance policy does not now include that coverage.

(Prior Code, § 2-4-1)

§ 34.02 CIVIL DEFENSE ACT ADOPTED.

The “Nebraska Emergency Management Act,” being Neb. RS 81-829.36 to 81-829.75, shall insofar as applicable be a part of this chapter.

(Prior Code, § 2-4-2) (Ord. 165, passed 7-1-1957)

CHAPTER 35: FIRE AND POLICE DEPARTMENTS

Section

Fire Department

- 35.01 Organization
- 35.02 Chief
- 35.03 Officers; duties
- 35.04 Equipment; care of
- 35.05 Membership and vacancies
- 35.06 Control
- 35.07 Apparatus
- 35.08 Inspection of premises
- 35.09 Fire investigations and reports
- 35.10 Department records; inventories
- 35.11 Protection of property; Fire Chief
- 35.12 Expenditure of funds
- 35.13 Regulation of traffic at fires
- 35.14 Equipment not to be disturbed
- 35.15 Open burning
- 35.16 Rescue Chief
- 35.17 Equipment for ambulatory and medical services; care of
- 35.18 Rescue Department records; inventories
- 35.19 Expenditure of funds for Rescue Department
- 35.20 Control of Emergency Department

Police Department

- 35.25 Generally
- 35.26 Duties
- 35.27 Witness fee
- 35.28 Rules and regulations
- 35.29 Rewards
- 35.30 Police; arrest powers
- 35.31 Removal or discipline of police officers

Arrests

- 35.45 Citation in lieu of arrest
- 35.46 Citation by peace officer; contents; duplicate
- 35.47 Issuance of citation; when
- 35.48 Citation; failure to appear; conviction
- 35.49 Peace officer; grounds for arrest; detention

FIRE DEPARTMENT**§ 35.01 ORGANIZATION.**

All volunteer fire companies which have been, or shall hereafter be, organized according to law, in this city shall constitute the Fire Department. The compensation of officers and/or members of the Fire Department shall be such as may from time to time be fixed by the Mayor and Council.

(Prior Code, § 3-1-1)

Statutory reference:

Organization, see Neb. RS 17-147

§ 35.02 CHIEF.

The members of the Fire Department shall, at the time of each annual meeting of the Department, recommend some person for the office of Chief of the Fire Department, who, on being confirmed by the Mayor and Council, shall hold office until his or her successor shall be appointed and qualified.

The Fire Chief shall be subject to removal by the Mayor and Council at any time

(Prior Code, § 3-1-2) (Ord. 785, passed 8-9-2016)

§ 35.03 OFFICERS; DUTIES.

It shall be the duty of the Chief of the Fire Department, the Assistant Chief or the foreperson of any fire company lawfully acting in his or her stead, in all cases of fire, to take and have control of all members of the Fire Department and of all proper means for the extinguishment of fires, the protection of property, the preservation of order at and in the vicinity of fires, and to secure the observance of all regulations respecting fires.

(Prior Code, § 3-1-3)

§ 35.04 EQUIPMENT; CARE OF.

All apparatus and appliances for the extinguishment of fire belonging to or used by this city shall be under direct and immediate control of the Chief of the Fire Department and of the several fire companies to which the appliances have been delivered. No person shall, under any pretense whatsoever, remove any of the appliances from the place or house where it is kept by its respective company, except the members of the company, without the order of one of the properly authorized officers of the company, the Chief of the Department or someone authorized to act in his or her stead. It shall be the duty of the fire companies to keep all apparatus and hose furnished by the city in a serviceable and clean condition and in such a state as to be of immediate use in case of fire. (Prior Code, § 3-1-4) Penalty, see § 10.99

§ 35.05 MEMBERSHIP AND VACANCIES.

The Chief of the Fire Department shall have authority to appoint members of the Department as provided by law. His or her selection shall first be submitted to the Mayor and Council, and shall be approved by them. All vacancies that may occur in the membership shall be filled in the same manner. (Prior Code, § 3-1-5)

§ 35.06 CONTROL.

The exclusive control of the Fire Department, in all matters except expenditures, shall be in the Chief of the Fire Department. (Prior Code, § 3-1-6)

§ 35.07 APPARATUS.

The Chief of the Fire Department shall have the custody of all apparatus and property used in fire protection either belonging to or used by the city. He or she shall have authority to direct how it shall be cared for, and shall be responsible for its safe and proper keeping. (Prior Code, § 3-1-7)

§ 35.08 INSPECTION OF PREMISES.

(A) It shall be the duty of the Chief of the Fire Department, when directed to do so by the Mayor, or at the request of the Bayard Health Board, to cause to be inspected by the Fire Department officers, buildings, premises, and structures for the purpose of assisting the Mayor, Health Board and/or the Problem Resolution Team in evaluating or determining the condition of any building, premises or structure which may be liable to cause fire or any violation of the provisions of the Property Maintenance Code affecting fire hazards.

(B) The Chief of the Fire Department shall report in detail to the Mayor, Health Board or Problem Resolution Team the condition of any building, premises or structures that have been damaged as a result of fire and are not in suitable condition to be occupied, used or maintained by the owners, tenants or the public because of the condition of the premises. (Prior Code, § 3-1-8) (Ord. 785, passed 8-9-2016)

§ 35.09 FIRE INVESTIGATIONS AND REPORTS.

(A) The Chief of the Fire Department shall investigate the cause, origin and circumstances of every fire hereafter occurring in the city. The investigation shall be begun within two days after the occurrence of the fire.

(B) The officer making the investigation shall forthwith notify the State Fire Commissioner and shall within one week of the occurrence of the fire furnish to the Fire Commissioner a written report of all facts relating to the cause and origin of the fire and other information as may be called for by the blank provided by the Fire Commissioner.

(Prior Code, § 3-1-9)

§ 35.10 DEPARTMENT RECORDS; INVENTORIES.

(A) The Chief of the Fire Department shall keep a list of all members of the Fire Department, showing the name and age of each, the date he or she entered the service and other data as the Council may require.

(B) He or she shall also keep a record of all fires and fire alarms, of their location, of the class of building or structure damaged or destroyed, of the purpose for which it was used, of the cause of the fire, the amount of loss, the amount of insurance and other information as to him or her or the Council seems important.

(C) He or she shall include in the report a record of any injury that may have been sustained by any person on account thereof.

(D) The record shall at all times be available for the inspection of the Mayor and Council.

(E) He or she shall report to the Council, at its first meeting in May of each year, the operation of the Department for the preceding year, and shall include therewith an inventory of the property of the Department.

(F) He or she shall file with the Clerk and the Clerk of the District Court of the county, on the first Monday of April and October of each year, 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.

(G) The service records of all firefighters shall accompany their applications for honorable discharge when the same are submitted to the Mayor and Council for approval and signature.

(Prior Code, § 3-1-10) (Ord. 785, passed 8-9-2016)

§ 35.11 PROTECTION OF PROPERTY; FIRE CHIEF.

The Fire Chief may appoint persons to assist in the protection of property, who shall, on his or her recommendation, be compensated by the Council for any services rendered.

(Prior Code, § 3-1-11)

§ 35.12 EXPENDITURE OF FUNDS.

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Fire Department unless authorized by the Council.
(Prior Code, § 3-1-12)

§ 35.13 REGULATION OF TRAFFIC AT FIRES.

(A) No person, without the consent of the Chief of the Fire Department or his or her assistant in command, shall drive any vehicle over any unprotected hose of the Fire Department. When the fire alarm shall have been sounded, every vehicle already stationary or parked shall remain so for a period of five minutes after the sounding of the fire alarm. The driver of any moving vehicle upon the sounding of any fire alarm or upon the approach of any fire engine or fire apparatus, shall immediately drive the vehicle as near as possible to the right hand curb and shall bring the vehicle to a standstill until after the fire engines or fire apparatus shall have passed.

(B) No vehicle, except by specific direction of the Chief of the Fire Department, or his or her assistant, shall follow, approach or park closer than 150 feet to a fire or to fire apparatus. The provisions of this section shall be construed to apply neither to vehicles carrying doctors or members of the Fire Department, nor to drivers of ambulances when emergency calls require the abrogation of the fire traffic rules mentioned herein. Pedestrians shall not remain within the limits of any street after a fire alarm shall have been sounded until the fire engines or fire apparatus shall have completely passed.
(Prior Code, § 3-1-13)

§ 35.14 EQUIPMENT NOT TO BE DISTURBED.

No person other than the Fire Chief and members of the Fire Department shall, at any time, molest, handle or interfere with any of the fire apparatus belonging to the city.
(Prior Code, § 3-1-14)

§ 35.15 OPEN BURNING.

(A) The Chief of the Fire Department of the City or his or her designee may waive the statewide open burning ban provided for in Neb. RS 81-520.01 for areas under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit shall be in writing signed by the Fire Chief or his or her designee, and on a form prescribed by the State Fire Marshall.

(B) The Chief of the Fire Department of the city or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in the jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

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(C) The Chief of the Fire Department of the city may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (A) above.

(D) A fee for issuance of an open burning permit shall be established by resolution by the city council. The fee shall be remitted to the City Clerk for inclusion in the general funds allocated to the Fire Department. These funds shall not reduce the tax requirements for the Fire Department.

(E) The Chief of the Fire Department of the city may waive an open burning ban under division (A) above by issuing a permit for range-management burning only if the range-management burning is to be conducted in accordance with Neb. RS 81-520.05.

(F) Any violation of this section shall be punishable by fine as set forth in § 10.99. Each day shall be a separate offense.

(Prior Code, § 3-1-15) (Ord. 588, passed 3-10-1998; Ord. 720, passed 9-8-2009)

§ 35.16 RESCUE CHIEF.

The members of the Fire Department shall, at the time of each annual meeting of the Department, recommend some person for the office of Rescue Chief of the Fire Department, who, on being confirmed by the Mayor and Council, shall hold office until his or her successor shall be appointed and qualified. The Rescue Chief shall be subject to removal by the Mayor and Council at any time.

(Ord. 785, passed 8-9-2016)

§ 35.17 EQUIPMENT FOR AMBULATORY AND MEDICAL SERVICES; CARE OF.

All apparatus and appliances for the purpose of ambulatory and medical services belonging to or used by this city shall be under direct and immediate control of the Rescue Chief of the Fire Department. No person shall, under any pretense whatsoever, remove any of the appliances from the place or house where it is kept by its respective company, except the members of the company, without the order of one of the properly authorized officers of the company, the Rescue Chief or someone authorized to act in his or her stead. It shall be the duty of the Rescue Chief and his assistants to keep all apparatus and equipment furnished by the city in a serviceable and clean condition and in such a state as to be of immediate use in case of an emergency.

(Ord. 785, passed 8-9-2016)

§ 35.18 RESCUE DEPARTMENT RECORDS; INVENTORIES.

(A) The Rescue Chief of the Fire Department shall keep a list of all members of the Rescue Department, showing the name and age of each, the date he or she entered the service and other data as the Council may require.

(B) He or she shall keep all necessary records pertaining to services rendered for billing and medical purpose; all such records shall be secured in an appropriate fashion in accordance to HIPPA regulations.

(Ord. 785, passed 8-9-2016)

§ 35.19 EXPENDITURE OF FUNDS FOR RESCUE DEPARTMENT.

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Rescue Chief, unless authorized by the Council.

(Ord. 785, passed 8-9-2016)

§ 35.20 CONTROL OF EMERGENCY DEPARTMENT.

The exclusive control of the Emergency Department, in all matters pertaining to direct medical care of individuals, except expenditures, shall be in the Rescue Chief of the Fire Department.

(Ord. 785, passed 8-9-2016)

POLICE DEPARTMENT

§ 35.25 GENERALLY.

The Police Department shall consist of the Chief of Police and other personnel as may be appointed by the Mayor with the approval of the City Council, including school crossing guards.

(Prior Code, § 3-2-1) (Ord. 597, passed 3-10-1998)

§ 35.26 DUTIES.

It shall be the duty of the members of the Police Department to see to the enforcement of all of the laws of the city and all statutes applicable therein; and to preserve order and prevent infractions of the law and arrest violators thereof.

(Prior Code, § 3-2-2)

§ 35.27 WITNESS FEE.

Every member of the Police Department shall appear as witness whenever necessary in a prosecution for a violation of any law or of any state or federal law. No member shall retain any witness fee for

service as witness in any action or suit to which the municipality is a party; any fees paid for those services shall be turned over to the Chief of Police, who shall deposit the same with the Treasurer. (Prior Code, § 3-2-3)

§ 35.28 RULES AND REGULATIONS.

The Chief of Police may make or prescribe rules and regulations as he or she shall deem advisable; those rules, when approved by the governing body, shall be binding on those members. The rules and regulations may cover, besides the conduct of the members, uniforms and equipment to be worn or carried, hours of service, vacations and all other similar matters necessary or desirable for the better efficiency of the Department. (Prior Code, § 3-2-4)

§ 35.29 REWARDS.

The Chief of Police, for meritorious service rendered by any member of the police force in the due discharge of his or her duty, may permit the member to retain for his or her own benefit, so far as he or she may be permitted by law, any reward or present tendered him or her therefor, and it shall be cause for removal for any member of the force to receive any reward or present without notice thereof to the Chief of Police without his or her permission. (Prior Code, § 3-2-6)

§ 35.30 POLICE; ARREST POWERS.

The police of the city shall have power to arrest all offenders against the laws of the state or of the city, by day or by night, within the jurisdiction as is provided by the laws of the state, in the same manner as the sheriff or constable, and keep them in the county jail or other place to prevent their escape, until trial can be had before the proper officer. (Prior Code, § 3-2-7)

§ 35.31 REMOVAL OR DISCIPLINE OF POLICE OFFICERS.

(A) *Removal of police officer.* Any police officer including the Chief of Police may be removed at any time by the Mayor.

(B) *Appeal of removal or disciplinary action.* A police officer including the Chief of Police may appeal the removal or other disciplinary action to the City Council by filing an application for appeal with the City Clerk within seven calendar days after actual or constructive receipt of notice of the

removal or disciplinary action. The application for appeal shall state why the employee believes the action to be inappropriate. Upon receipt of an application for appeal, the City Clerk shall notify the Mayor who may either call a special meeting of the City Council to hear the appeal or set the matter for hearing at the next regular meeting of the City Council. In any event, the hearing must be held within ten calendar days after the filing of the application for appeal. In cases of gross misconduct, neglect of duty, or disobedience of orders, the Mayor may peremptorily suspend or immediately remove the officer from duty pending the hearing.

(C) *Hearing on appeal from removal or disciplinary action.* Unless the City Council determines at the beginning of the hearing that some other person should act as hearing officer, the City Attorney shall act as hearing officer for the hearing. The rules of evidence of the Nebraska Supreme Court and the rules of evidence contained in Neb. RS Chapter 27 shall not be applicable. Both the police officer and the Mayor shall have the right at the hearing to be heard and to present evidence to the City Council for its consideration and may be represented by counsel. The City Council shall vote to uphold, reverse or modify the removal or disciplinary action not later than 30 days following the adjournment of the meeting in which the hearing was held. The failure of the City Council to act within 30 days or the failure of a majority of the elected Council members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the statutes of the state.

(Prior Code, § 3-2-8) (Ord. 549, passed 2-13-1996)

ARRESTS

§ 35.45 CITATION IN LIEU OF ARREST.

It is hereby declared to be the policy of the city to issue citations in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and the protection of the public. In furtherance of that policy, any peace officer shall be authorized to issue a citation in lieu of arrest or continued custody for any offense which is a traffic infraction, any other infraction or misdemeanor and for any violation of this city code.

(Prior Code, § 10-7-1)

§ 35.46 CITATION BY PEACE OFFICER; CONTENTS; DUPLICATE.

(A) When a citation is issued by a peace officer, he or she shall enter thereon all required information, including the name and the address of the cited person, the offense charged, and the time and place the person cited is to appear in court.

(B) Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to the person cited, and a duplicate thereof shall be signed by the person, giving his or her promise to appear at the time and place stated therein. The person thereupon shall be released from custody.

(C) As soon as practicable, three copies of the uniform citation and complaint shall be delivered to the prosecuting attorney.

(D) At least 24 hours before the time set for the appearance of the cited person, the prosecuting attorney or other person authorized by law to issue a complaint for the particular offense shall either issue and file a complaint charging the person with an offense, or file with the court and deliver to the person a notice that a complaint has been refused and that the person is released from his or her obligation to appear or that the offense charged in the original citation has been changed or amended as specified.

(Prior Code, § 10-7-2)

§ 35.47 ISSUANCE OF CITATION; WHEN.

(A) Citations may also be issued under the following circumstances:

(1) In any case in which the prosecuting officer is convinced that a citation would serve all of the purposes of an arrest warrant; and

(2) Whenever any complaint or information is filed in the county court charging a felony, misdemeanor, infraction or violation of a city ordinance when the court is convinced that a citation would serve all of the purposes of the arrest warrant procedures.

(B) The citations provided for in this section may be served as provided by state law.
(Prior Code, § 10-7-3) Penalty, see § 10.99

§ 35.48 CITATION; FAILURE TO APPEAR; CONVICTION.

It shall be unlawful for any person to fail to appear or otherwise comply with the command of the citation.

(Prior Code, § 10-7-4) Penalty, see § 10.99

§ 35.49 PEACE OFFICER; GROUNDS FOR ARREST; DETENTION.

(A) Any peace officer having grounds for making an arrest may take the accused into custody or, already having done so, detain him or her further when the accused fails to identify himself or herself satisfactorily, or refuses to sign the citation, or when the officer has reasonable grounds to believe that:

- (1) The accused will refuse to respond to the citation;
- (2) The custody is necessary to protect the accused or others when his or her continued liberty would constitute a risk of immediate harm;
- (3) The action is necessary in order to carry out legitimate investigative functions;
- (4) The accused has no ties to the jurisdiction reasonably sufficient to assure his or her appearance; or
- (5) The accused has previously failed to appear in response to a citation.

(B) Any person who resists lawful arrest, or who is not a resident of this state, or whom the arresting officer shall have good cause to believe has committed:

- (1) Any felony;
- (2) An offense causing or contributing to an accident resulting in serious injury or death of any person; and/or
- (3) Any offense of reckless driving, wilful reckless driving, driving while under the influence of intoxicating liquor or narcotic drugs or driving during any period of suspension or revocation of his or her motor vehicle operator's license or after any period of suspension and before the license shall have been renewed, shall be arrested and taken into custody by the peace officer unless in the officer's professional judgment another course of action is required.

(C) Any officer violating any of the provisions of this chapter shall be guilty of misconduct in office and shall be subject to removal from office.

(Prior Code, § 10-7-5) (Ord. 385, passed 3-9-1982)

CHAPTER 36: CITY ORGANIZATIONS

Section

Library Board

- 36.01 Establishment of public library
- 36.02 Appointment and terms
- 36.03 Organization
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LIBRARY BOARD**§ 36.01 ESTABLISHMENT OF PUBLIC LIBRARY.**

(A) The city owns and manages the City Public Library through the Library Board.

(B) The Mayor and Council, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the library, shall each year levy a tax of not more than ten and five-tenths cents on each \$100 upon the actual value of all the taxable property in the city, except intangible property, to be levied and collected in a like manner as other taxes in the city.

(C) The amount collected from the levy shall be known as the Library Fund, and shall at all times be in the custody of the City Treasurer.

(D) The Library Board shall have exclusive control of expenditures of all money collected or donated to the Library Fund, of the renting and construction of any library building and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose.

(Prior Code, § 2-1-1) (Ord. 467, passed 3-10-1992)

§ 36.02 APPOINTMENT AND TERMS.

(A) A Library Board shall be appointed by the Mayor with the approval of the City Council.

(B) The Library Board shall consist of five members, all of whom shall be residents of the city. Each member shall serve a four-year term.

(C) Three members shall be appointed in 1992 and every fourth year thereafter, and two members shall be appointed in 1994 and every fourth year thereafter, to succeed members now serving as their terms expire.

(D) No member shall serve more than two consecutive terms.

(E) The members of Board shall serve without compensation.

(Prior Code, § 2-1-2) (Ord. 467, passed 3-10-1992)

§ 36.03 ORGANIZATION.

(A) The Library Board shall select from its members a Chairperson and Secretary.

(B) It shall be the duty of the Secretary to keep full and correct minutes and records of all meetings and file the same with the City Clerk where they shall be available for public inspection at any reasonable time.

(C) A majority of the members of the Library Board shall constitute a quorum for the transaction of business.

(Prior Code, § 2-1-3) (Ord. 467, passed 3- 10-1992)

§ 36.04 MEETINGS.

(A) The Library Board shall meet at such times as the Board may by resolution designate.

(B) Special meetings may be held upon the call of the Chairperson or any three members of the Board.

(C) Notice of meetings of the Library Board shall be given as provided by § 30.06 of this code of ordinances, as amended from time to time.

(Prior Code, § 2-1-4) (Ord. 467, passed 3-10-1992)

§ 36.05 DUTIES AND POWERS.

(A) The Board shall have the powers and duties given to Library Boards by Neb. RS 51-201 through 51-219, as amended from time to time.

(B) No member of the City Council shall serve as a member of the Library Board while serving a term of office as a member of the City Council.

(C) No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board.

(D) The librarian shall be appointed by a majority vote of the Board.

(Prior Code, § 2-1-5) (Ord. 467, passed 3-10-1992)

§ 36.06 PENALTIES.

(A) Penalties imposed or accruing under any rule or regulation of the Library Board may be recovered in a civil action before any Justice of Peace, Police Magistrate or other court having jurisdiction.

(B) The above action shall be instituted in the name of the Library Board of the city.

(Prior Code, § 2-1-6) (Ord. 219, passed - - 1969)

BOARD OF HEALTH**§ 36.20 MEMBERSHIP.**

(A) The Board of Health shall consist of four members, the Mayor, who shall be chairperson, the President of the City Council, and two other members.

(B) One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor.

(C) One member of the Board shall be the Police Chief, who is also the Code Official under the city's Property Maintenance Code. The Police Chief shall serve on the Board as security officer and quarantine officer, in addition to the Code Enforcement Officer under the city's Property Maintenance Code.

(D) A majority of the Board shall constitute a quorum.
(Prior Code, § 2-5-1) (Ord. 536, passed 3-14-1995; Ord. 777, passed 9-8-2015)

§ 36.21 POWERS AND DUTIES.

(A) The Board shall enact rules and regulations consisting of the city's Property Maintenance Code which will have the force and effective law to safeguard the health of the people of the city, and enforce the rules and regulations of the Property Maintenance Code and provide for fines and punishments for violations thereof.

(B) The rules and regulations of the Board of Health shall relate to matters of sanitation of the city including the removal of dead animals, the sanitary conditions of streets, alleys and vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, water closets, cesspools, stables and all buildings and places not specified where filth, nuisances or offensive matter is kept or is liable to or does accumulate.

(C) The Board of Health may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances, or to matters of sanitation of the city.

(D) The Board of Health shall have control of hospitals, dispensaries and places for the treatment of the sick, and of matters relating to the same under restrictions and provisions as are provided in the ordinances of the city.
(Prior Code, § 2-5-2) (Ord. 536, passed 3-14-1995; Ord. 777, passed 9-8-2015)

Cross reference:

Property Maintenance Code, see Chapter 154

PLANNING COMMISSION

§ 36.35 CREATION OF COMMISSION.

There is hereby created and established a Planning Commission for the city, to be known as “Planning Commission for the City of Bayard”.

(Prior Code, § 2-7-1) (Ord. 194, passed 2-1-1966)

§ 36.36 MEMBERS; TERMS; REMOVAL; VACANCIES.

(A) The Commission shall consist of five members who shall represent insofar as is possible different professions or occupations in the municipality and an alternate member, all of whom shall be appointed by the Mayor, by and with the approval of a majority vote of the elected members of the City Council. All members of the Commission shall serve as such without compensation and shall hold no other municipal office. The term of each member, including the alternate member, shall be three years, except that two members of the first Commission to be so appointed shall serve for a term of one year, two for the term of two years, and one for the term of three years.

(B) All members shall hold office until their successors are appointed and approved. If the alternate member position becomes vacant other than through expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Mayor with the approval of a majority vote of the elected members of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

(C) Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council for inefficiency, neglect of duty, or malfeasance in office or other good and sufficient cause. Vacancies of the regular membership occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor with the approval of a majority vote of the elected members of the City Council.

(Prior Code, § 2-7-2) (Ord. 541, passed 8-8-1995)

§ 36.37 ORGANIZATION; MEETINGS; RULES; RECORDS.

(A) The Commission shall elect its Chairperson from its members and create and fill other of its offices as it may determine.

(B) The term of Chairperson shall be one year, and he or she shall be eligible for reelection.

(C) The Commission shall hold at least one regular meeting in each month.

(D) It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.
(Prior Code, § 2-7-3) (Ord. 194, passed 2-1-1966)

§ 36.38 FUNDS; LIMIT UPON EXPENDITURES.

The Council may provide the funds, equipment and accommodations necessary for the work of the Commission, but the expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Council; and no expenditures nor agreements for expenditures shall be valid in excess of those amounts.
(Prior Code, § 2-7-4) (Ord. 194, passed 2-1-1966)

§ 36.39 PURPOSE.

It shall be the function and duty of the Commission to make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the municipality.
(Prior Code, § 2-7-5) (Ord. 194, passed 2-1-1966)

§ 36.40 DUTIES.

(A) The Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof.

(B) It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens with relation to the protecting or carrying out of the plan.
(Prior Code, § 2-7-6) (Ord. 194, passed 2-1-1966)

COMMUNITY REDEVELOPMENT AUTHORITY

§ 36.65 ESTABLISHMENT.

It is hereby determined that it is in the best interests of the city to create a community redevelopment authority, which shall consist of a Board of five persons to be appointed by the Mayor, pursuant to state statute. This community redevelopment authority shall be known as the community redevelopment authority of the city.
(Prior Code, § 2-9-2) (Ord. 645, passed 5-14-2002)

§ 36.66 BOARD MEMBERS.

The term of office of the Board members and the appointment of officers of the Board and other procedural issues shall be governed by Neb. RS 18-2102 *et seq.*, as amended from time to time. (Prior Code, § 2-9-2) (Ord. 645, passed 5-14-2002)

PROBLEM RESOLUTION TEAM

§ 36.75 ESTABLISHMENT.

(A) *Purpose.* The City Council hereby determines it is in the best interest of the city that a Problem Resolution Team be established to abate nuisances and mitigate properties that are deteriorating, damaged or substandard, or that present housing code or building code violations, or health and sanitary concerns.

(B) *Organization.* The Problem Resolution Team shall consist of ten members including a Chairperson and a Vice-Chairperson, who shall be appointed by the Mayor, with the approval of the City Council. The Problem Resolution Team shall meet a minimum of six times per year. Meetings will be held at the City Hall.

(C) *Function.* The function of the Problem Resolution Team is to gather relevant information, share information among public agencies, respond to citizen complaints, identify nuisance issues, code violations, and other concerns within the city to insure the health and safety of the public is maintained and make recommendations to the Board of Health for resolution of issues that cannot be resolved through the mediation process adopted by the Problem Resolution Team.

(D) *Process.* The Problem Resolution Team shall receive complaints submitted by city staff, citizens or other public agencies, conduct appropriate investigations, refer matters to the Code Official for inspection, meet and confer with property owners, tenants or other citizens and representatives from other agencies to develop solutions to complaints; direct enforcement of routine code violations such as weed or tall grasses by city staff; follow-up on inspections; and agree to resolutions.

(E) *Referral.* In the event that the Problem Resolution Team is unable to resolve complaints, the matter shall be referred to the city Board of Health for enforcement based upon the City Code, Property Maintenance Code, and state statute.

(Ord. 778, passed 11-10-2105)

Cross reference:

Property Maintenance Code, see Chapter 154

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