

**AGENDA
CITY COUNCIL MEETING
April 19, 2016**

1. [Approval of Minutes – April 5, 2016](#)

2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items:

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Action on Application for Membership of Jacob Stenka to the Wayne Volunteer Fire Department — Phil Monahan, Fire Chief](#)

4. [Report from Airport Authority Board](#)

5. [Public Hearing: To consider the Planning Commission’s recommendation in regard to the “Kardell East 14th Street Addition Final Plat.” The Applicant, Virgil Kardell, is seeking the request. \(Advertised Time: 5:30 p.m.\)](#)

6. [Resolution 2016-24: Approving the “Kardell East 14th Street Addition Final Plat”](#)

Recommendation: The recommendation of the Planning Commission is to approve the final plat.

7. [Ordinance 2016-4: Amending the Zoning Map to rezone property from R-1 Residential to B-3 Neighborhood Commercial – Virgil Kardell \(Second Reading\)](#)

Background: Kardells own the land and are requesting this area shown in the attachment be rezoned to B-3 mixed use. The definition of mixed use is also included in the attachment.

8. [Resolution 2016-25: Accepting a Plan to extend City Services and setting a public hearing on the proposed annexation area to the City of Wayne \(Kardell East 14th Street Addition\)](#)

Background: A plan for extending city water and sewer to the annexed property is required for approval of the annexation. The plan is in the attachment.

9. [Action on Request to close the following streets on Friday, July 8th, from 2:30 p.m. until 2:00 a.m. for the annual Henoween Celebration: Main Street from 1st Street to the alley between 3rd and 4th Streets; 2nd and 3rd Streets from the alley west of Main Street to the](#)

alley east of Main Street— Irene Fletcher, Assistant Director
WAED

10. Action on Request to close the following streets on Saturday, July 9th from 6:00 a.m. until 5:00 p.m. for the Annual Chicken Show Celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln and Douglas Streets from 10th Street to 8th Street. The intersections at 10th and Douglas and 10th and Lincoln Streets and 9th and Lincoln Streets are also requested to be closed — Irene Fletcher, Assistant Director WAED
11. Action on Request to close the following Streets on Saturday, July 9th, for the Annual Chicken Show Parade from 9:00 a.m. until 11:30 a.m. (or until the end of the parade): Main Street from 1st Street to 10th Street (including intersections) and 10th Street from Main Street to Lincoln Street. Lincoln Street from 10th Street to 7th Street will also be used for the parade — Irene Fletcher, Assistant Director WAED
12. Resolution 2016-26: Acknowledging Requirements for the Temporary Use of the State Highway System for Special Events (Halloween and Chicken Show – July 8th and 9th)
13. Resolution 2016-16: Accepting Bid and Awarding Contract for the Carpet Replacement Project at the Community Activity Center (Tabled from previous meeting)

Background: We received two bids that met the specification requirements to re-carpet the CAC locker rooms and hall. Of the two bids, the low bid was for \$27,499 from PCF, LLC.

Recommendation: Staff recommendation is to accept the low bid of \$27,499 from PCF, LLC.

14. Resolution 2016-27: Amending Sewer Rates (outside city limit rate)

Background: The operating costs and capital costs of establishing and operating a municipal utility system are included in the rates to utility customers. The management and control of the system, through personal responsibility, and the judgment and executive oversight is delegated to the elected officials by the citizens of the municipality, and the value of that is not covered in the rates.

The municipality and its elected officials have the option to extend utilities outside the municipal corporate limits, but are not required to. Most cities allow extensions outside the city limits as a courtesy, but charge a higher rate for taking care of the regulatory, legal, and fiscal responsibility and oversight for those served outside the city limits. There are no rate restrictions inside or outside the city limits. Those are left to the discretion of the board or council.

Recommendation: The multiple for water and sewer rates outside the city limits is currently set at 2. Utility rates are the prerogative of the elected officials. The value of the executive responsibility and time spent on utilities is critical and underrated.

Over time, it saves hours of deliberation and decisions for those customers outside the corporate limits over the cost and regulatory compliance of individual wells and septic systems. The recommendation of Lowell Johnson, City Administrator, for a place to start discussion on a higher multiple for water and sewer rates outside city limits is 2.5.

15. [Resolution 2016-28: Amending Water Rates \(outside City limit rate\)](#)
16. [Resolution 2016-29: Amending Wage and Salary Schedule \(Add Asst. Pool Manager, re-establish position of Power Plant Foreman, and change Water Supervisor from Exempt to Non-Exempt\)](#)

Background: These three adjustments need to be made to the Wage Resolution to accommodate the positions of hired personnel. We expect to have two more wage amendments at a future date.

17. [Resolution 2016-30: Accepting Work on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and Southview Addition Water Extension District No. 2015-01 Projects](#)

Background: This action is required to officially end the extension district project and accept the work bid out as completed.

18. [Resolution 2016-31: Setting Board of Equalization Hearing Date on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and Southview Addition Water Extension District No. 2015-01 Projects](#)

Background: The project engineer has prepared a spreadsheet of all the district project costs and has allocated the project costs out to the abutting property owners in the district on the basis of front footage. The Council must convene as a “Board of Equalization” and hold a public hearing for the property owners and residents of the city to comment on the method and fairness of the assessments. When the Board of Equalization approves the assessments, the Board adjourns and the City Council reconvenes to set the final property assessments and the interest rate.

Recommendation: The recommendation of staff is to hold the public hearing at the May 17th City Council meeting.

19. [Action on Contractor’s Application for Payment No. 1 for the “Logan Valley Drive Water & Sewer Extension Project” in the amount of \\$95,154.57 to Penro Construction Co., Inc.](#)

Recommendation: This is for work completed in accordance with the contract and approved for payment by the project engineer.

20. [Ordinance 2016-5: Amending Wayne Municipal Code, Section 10-33 Lottery; Participation; Restrictions](#)

Background: This action would remove the prohibition of city employees or their family members from participating in Keno inside Wayne city limits.

21. [Action to approve revisions regarding the Municipal Code Update: Chapter I - General and Chapter III - Administration](#)

Background: The “City Code” is the codification of all the rules and regulations adopted by the City over time, and includes all of the State laws cities are required to follow. The Code obviously changes many times per year. About every 10 years, most towns hire a firm to update and republish the “City Code” with all new changes codified into one updated book.

The City staff and the City Attorney have reviewed each page of the City Code, as part of this recodification process, and are making recommendations to the Council for those changes. These changes must be approved by Council vote before printing the updated code. We have completed our review and recommendations and will bring you only a portion of the changes at a time so you have a chance to digest and question the same before voting.

The changes proposed by City staff have been reviewed and approved for legal form by the City Attorney and are marked up in the attachment to this agenda for your review.

22. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

**MINUTES
CITY COUNCIL MEETING
April 5, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, April 5, 2016, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Rod Greve, Jon Haase, Jennifer Sievers, Nick Muir, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Cale Giese and Jason Karsky.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 7, 2016, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, whereas, the Clerk has prepared copies of the Minutes of the meeting of March 15, 2016, and March 22, 2016, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERICAN RED CROSS, RE, 10.00; AMERITAS, SE, 5126.99; APPEARA, SE, 267.82; ARC-HEALTH & SAFETY, SE, 114.00; AS CENTRAL SERVICES, SE, 448.00; BARRACUDA NETWORKS, SE, 300.00; CITY EMPLOYEE, RE, 740.84; BEST BOOKS, INC, SU, 247.09; BLACK HILLS, SE, 710.61; BLUE CROSS BLUE SHIELD, SE, 35139.92; BOMGAARS, SU, 332.93; BSN SPORTS, SU, 192.00; C. H. GUERNSEY & COMPANY, SE, 1807.00; CARHART LUMBER CO, SU, 540.08; CARROT-TOP INDUSTRIES, SU, 195.23; CENTURLINK, SE, 414.17; CITY OF WAYNE, RE, 350.00; CITY OF WAYNE, RE, 1000.00; CITY OF WAYNE, PY, 140380.79; CITY OF WAYNE, SE, 40.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 176.76; COMMUNITY HEALTH, SE, 8.00; DANKO EMERGENCY EQUIP, SU, 1596.87; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 106.64; DITCH WITCH OF OMAHA, SU, 345.61; CITY EMPLOYEE, RE, 471.96; DUTTON-LAINSON, SU, 731.88; EASY PERMIT, SU, 1768.69; ECHO GROUP, SU, 1218.46; ED. M FELD EQUIPMENT, SU,

1062.21; ENVIRONMENTAL SYSTEM, SE, 1400.00; FASTENAL, SU, 278.19; FIRST CONCORD GROUP, SE, 2872.98; FLOOR MAINTENANCE, SU, 543.78; GALE GROUP, SU, 176.93; GERHOLD CONCRETE, SU, 4071.68; GROSSENBURG IMPLEMENT, SU, 285.64; HD SUPPLY WATERWORKS, SU, 3383.24; HOLIDAY INN-DOWNTOWN, SE, 178.00; HOMETOWN LEASING, SE, 412.86; HUNDERTMARK CLEANING SYSTEMS, SU, 283.55; ICMA, SE, 13828.73; IRS, TX, 52180.91; ISLAND SPRINKLER SUPPLY, SU, 163.90; JACK'S UNIFORM, SU, 11.25; JEO CONSULTING GROUP, SE, 12101.25; JMB CONTRACTING, SE, 800.00; CITY EMPLOYEE, RE, 27.44; KAUP SEED & FERTILIZER, SU, 640.00; KEEP NEBRASKA BEAUTIFUL, FE, 100.00; L.G. EVERIST, SU, 110.35; CITY EMPLOYEE, RE, 193.50; CITY OF WAYNE, RE, 135.00; MICHAEL TODD & CO, SU, 452.63; MOONLIGHT TOWING, SE, 500.00; NNEDD, SE, 615.00; CITY EMPLOYEE, RE, 1013.96; NE DEPT OF HEALTH AND HUMAN SERVICES, FE, 40.00; NE DEPT OF REVENUE, PY, 7563.32; NE DEPT OF ROADS, SE, 3717.00; NE MUNICIPAL CLERKS ASSOC, FE, 35.00; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SU, 396.00; NE SAFETY COUNCIL, FE, 78.36; NORTHWEST ELECTRIC, SU, 657.64; O'REILLY AUTOMOTIVE STORES, SU, 47.98; ORIENTAL TRADING CO, SU, 134.46; CITY EMPLOYEE, RE, 67.31; PITNEY BOWES, SE, 1497.55; POWER MONITORS, RE, 200.00; PUSH-PEDAL-PULL, SU, 301.57; RON'S RADIO, SE, 120.00; SENECA COMPANIES, SE, 9076.00; SIEVERS FARMS, SE, 1820.00; FIREMAN, RE, 135.50; SIRSIDYNIX, SU, 3339.28; STAPLES CONTRACT & COMMERCIAL, SU, 72.75; STATE NEBRASKA BANK, RE, 105.70; CITY EMPLOYEE, RE, 83.70; THE CHILD'S WORLD, SU, 227.40; TRANS-IOWA EQUIPMENT, SU, 539.15; TYLER TECHNOLOGIES UTILITY, SE, 4143.58; VERIZON, SE, 99.78; VIAERO, SE, 247.07; WAYNE AIRPORT, RE, 8540.59; WAYNE AUTO PARTS, SU, 379.10; WAYNE COUNTY CLERK, RE, 26154.20; WAYNE COUNTY COURT, RE, 150.00; WAYNE HERALD, SE, 972.00; WESCO, SU, 4171.45; WISNER WEST, SU, 109.46; ADVANCED CONSULTING, SE, 2970.00; AMERICAN BROADBAND, SE, 2501.68; AMERICAN RED CROSS, RE, 10.00; APPEARA, SE, 66.60; CITY EMPLOYEE, RE, 2439.42; BROWN SUPPLY, SU, 677.19; BSN SPORTS, SU, 51.54; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 135.00; CITY OF WAYNE, RE, 1157.01; DANKO EMERGENCY EQUIPMENT, SU, 455.51; DUNRITE, SU, 99.16; EAKES OFFICE PLUS, SE, 67.60; EASYPERMIT POSTAGE, SU, 1049.28; ECHO GROUP, SU, 93.17; ELECTRONIC ENGINEERING, SE, 175.00; ELLIS HOME SERVICES, SE, 448.58; ENGINEERED EQUIPMENT SOLUTIONS, SU, 3628.50; FLOOR MAINTENANCE, SU, 777.19; GALE GROUP, SU, 74.07; GILL HAULING, SE, 170.50; HAMPTON INN-KEARNEY, SE, 379.80; HEIKES AUTOMOTIVE, SE, 58.85; ICC, FE, 135.00; IIMC, FE, 155.00; INGRAM BOOK CO, SU, 595.89; INTERSTATE ALL BATTERY, SU, 269.70; JONES, LEONARD, RE, 396.00; MARCO, SE, 126.36; MIDWEST TURF & IRRIGATION, SU, 11350.00; MILLER LAW OFFICE, SE, 5416.67; CITY EMPLOYEE, RE, 517.99; NE NEB INS AGENCY, SE, 76420.00; OVERDRIVE, SU, 656.69; PAC N SAVE, SU, 207.73; PENGUIN RANDOM HOUSE, S;U, 162.00; STATE NEBRASKA BANK & TRUST, RE, 10073.75; WAED, SE, 7216.66; WAYNE GROCERY, SU, 5.19; WAPA, SE, 26938.83; WIGMAN COMPANY, SE, 1704.95; ZACH HEATING & COOLING, SU, 93.79

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, Mayor declared the motion carried.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

James Simpson was present requesting Council to approve a resolution supporting his Eagle Scout project in Roosevelt Park. The total cost of the project will be \$4,640.00. The NRD grant would provide \$2,296.25, with the City contributing \$2,343.75.

Councilmember Sievers introduced Resolution No. 2016-21 and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2016-21

A RESOLUTION OF SUPPORT FOR JAMES SIMPSON'S ROOSEVELT PARK EAGLE SCOUT PROJECT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

Kelby Herman was present to discuss his proposed Tax Increment Financing Project for the former Mert Marshall property located at 309 S. Windom Street and the Lage Auction property. He would remove two structures and build four new structures on that property, as long as he can modify some of the lots. On the Lage Auction property, a horseshoe-shaped street is proposed. There would be 12 - 50' lots along the west side, which would be for single-family homes, with 11 lots in the center of the horseshoe for townhomes, with the property adjacent to the lagoon being for light commercial uses, such as storage type structures. These homes would not have basements, but would have double car garages. These homes would have 3-4 bedrooms, would be to own or rent, and in the \$119,000 range. The increase in valuation for property tax purposes would be about \$4.2 million. It will provide housing for approximately 108 people.

In response to some concern about the homes not having basements, Mr. Herman stated he has done research on tornado shelters and FEMA does approve a wood frame tornado shelter, which is more conducive to a wood structure and could be used as a closet or laundry room.

Mr. Herman was asking for a sense of how the Council felt about this project and his using tax increment financing for the same, before moving forward and incurring legal fees incurred with the tax increment financing process. The tax increment financing would be used for infrastructure – street, water and sewer. There did not seem to be any objections to the use of tax increment financing for this proposed project.

Administrator Johnson stated this area has already been designated as blight and substandard and is eligible for tax increment financing. However, the Lage Auction property is not within city limits, and the property would have to be annexed before tax increment financing could happen.

Mayor Chamberlain stated the time was at hand for the public hearing to consider the Planning Commission's recommendation concerning a rezoning request from R-1 Residential to B-3 Neighborhood Commercial to allow for the development of multi-family dwellings. The applicant is Virgil Kardell. The area to be rezoned is described as:

Beginning at the SE corner of the NE¼ of Section 7, T26N, R4E of the 6th P.M., Wayne County, Nebraska; said point being the point of beginning; thence north along the east edge of said section, 313'; thence west along a line parallel to the north edge of said section, 1,312' to the east side of Vintage Hills First Addition to the City of Wayne; thence south along the east line of Vintage Hills First Addition to the south edge of the NE¼ of Section 7, T26N, R4E, 313'; thence east along the south edge of the NE¼ of Section 7, T26N, R4E, 1,314' to the point of beginning.

The Planning Commission reviewed the matter at their public hearing on March 7, 2016, and forwarded a recommendation to approve the same subject to the following "Finding of Fact:" Consistency with the Comprehensive Plan and the current and future land use maps.

Virgil Kardell was present to answer questions.

Joel Hansen, Zoning Administrator, stated the public input he received at the Planning Commission was from some of the area residents who were concerned about whether or not there would be any new streets or additional traffic going through the Vintage Hill neighborhood. Once they understood it was just a strip for business development along 14th Street, they were satisfied. In addition, he had some concern from Great Dane about the potential for apartments in the area. However, the R-2 district, which is just south of Great Dane, has people living there, so there does not seem to be a lot of difference between whether somebody would live in an apartment or in a single-family home.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sievers introduced Ordinance No. 2016-4, and moved for approval thereof; Councilmember Haase seconded.

ORDINANCE NO. 2016-4

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF PROPERTY LOCATED IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, FROM R-1 RESIDENTIAL DISTRICT TO B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried. The second reading will take place at the next meeting.

The following Resolution would approve Supplemental Agreement No. 1 to the Agreement for Construction Engineering Services for the Windom Street from East 3rd Street to East 7th Street Project. This is a change order to add additional engineering costs of \$31,338.40 to the project for 19 days in excess of the original agreement, etc. This is for extra engineering time for delays in the project last year on Windom Street. This is the City's cost.

Joel Hansen, Street Superintendent, stated he and City Administrator Johnson met with Kirkham Michael before they submitted this change order to the State. Kirkham Michael stated they believed there was some work within the contract where the contractor will not need all of that money. They were also confident that some of this will be paid for by not spending it all on the contractor, and said they would not leave the City hanging at the end of the project.

Councilmember Muir introduced Resolution 2016-22, and moved for its approval; Councilmember Sievers seconded.

RESOLUTION NO. 2016-22

A RESOLUTION APPROVING CONSTRUCTION ENGINEERING SERVICES AGREEMENT - SUPPLEMENTAL AGREEMENT NO. 1 – BK1463 BETWEEN THE CITY OF WAYNE AND KIRKHAM MICHAEL AND ASSOCIATES, INC.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

The following Resolution would approve the engineering proposal of McLaury Engineering, Inc., on the “Nebraska Street Water Main Replacement Project – 3rd Street to 7th Street.” Three proposals were received: McLaury Engineering, Inc., JEO Consulting Group, and Advanced Engineering Services. Staff reviewed the three proposals, and their recommendation is to accept and approve the proposal of McLaury Engineering, Inc. The fee has not yet been determined, and if staff and the engineer cannot come to an agreement on the fees, then the legal process is to go with the second place firm.

Councilmember Eischeid introduced Resolution 2016-23, and moved for its approval pending approval of the negotiated fee; Councilmember Greve seconded.

RESOLUTION NO. 2016-23

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING AN AGREEMENT BETWEEN THE CITY OF WAYNE AND MCLAURY ENGINEERING, INC., FOR ENGINEERING DESIGN SERVICES FOR THE “NEBRASKA STREET WATER MAIN REPLACEMENT PROJECT – 3RD TO 7TH STREET.”

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

The following Change Order is made at the request of Olsson Associates on behalf of the contractor, Mark Albenesius, Inc., on the Wayne Airport Lift Station Project, to extend the completion date to August 31, 2016. This is a result due to delays with Northern Natural Gas abandoning the gas line and giving ownership to the City. Because of that, the contractor had to proceed forward with other projects.

Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, to approve Change Order No. 2 to extend the completion date for the Wayne Airport Lift Station Project to August 31, 2016. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

JEO Consulting Group, Inc., presented Change Order No. 1 for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” This includes three items. First, there was a minor change in the aluminum lettering resulting in a \$119 increase in material cost. Second, the manufacturer provided a third blower to the City, thus the contractor had to supply some materials and labor beyond the bid project scope at a cost of \$2,304. Third, connecting the new biosolids building to the old sludge loadout stand resulted in additional pipefittings being needed because the original was not built per the old 1986 plans as anticipated. This was unknown until the piping was excavated. The cost for additional fittings and labor was \$3,774. The net increase is \$6,197, and the contract time is being extended six calendar days for the additional labor.

Councilmember Eischeid made a motion, which was seconded by Councilmember Brodersen, to approve Change Order No. 1 for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project” for \$6,197 to Eriksen Construction Co., Inc. Mayor

Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

JEO Consulting Group, Inc. presented Application for Payment No. 8 for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project” for \$250,703.47 to Eriksen Construction, Co., Inc. They have found the work to date completed in accordance with the plans and specifications, and recommend approval of the same.

Councilmember Eischeid made a motion, which was seconded by Councilmember Brodersen, approving Application for Payment No. 8 for \$250,703.47 to Eriksen Construction, Co., Inc., for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

JEO Consulting Group, Inc., presented Application for Payment No. 9 for the “2016 Wayne Aquatic Center Project” for \$227,498.58 to Christiansen Construction Co., LLC. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Brodersen made a motion, which was seconded by Councilmember Muir, approving Application for Payment No. 9 for \$227,498.58 to Christiansen Construction Co., LLC, for the “2016 Wayne Aquatic Center Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

Administrator Johnson started the discussion regarding the middle and east end of 4th Street where it intersects with South Centennial Road. He wanted to make sure that both the east and west end of this project match, and water flows the right way. Staff is working with the engineer on the design.

The County is getting ready to pave, and they want to know if the City wants to do some of the work ahead of time. The Wayne County Commissioners are working with the abutting property owners to pave South Centennial Road from Highway 35 south to the bridge and to pave Chief's Way. Staff has been meeting with their project engineer to match the 4th Street paving and the storm drainage design with their project, even though we are not building at that end anytime soon.

The issue at hand we need to discuss is whether to install the storm drain we will need along South Centennial Road in the future, from 4th Street south to the bridge. South Centennial Road is outside the city limits, so the County will use a rural design to dig a deep ditch on the west side of South Centennial Road to carry the storm water runoff from our 4th Street storm drain system to a drop structure into Logan Creek.

As the city limits move through this area in the future, this will be developed as an urban area, and future Councils will likely want an urban design buried storm drain system along South Centennial Road instead of the deep open ditch. If the County paves South Centennial Road now, that leaves only 17 feet of width between the pavement edge and the farmer's property line where the fence currently is for the contractor to work in. It is easier to install the storm drain system now before paving, if we want to spend the money now.

After discussion, Council consensus was to get an estimate on this project and bring the same forward for Council consideration at the next meeting.

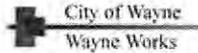
Staff brought forward four design proposals for adding additional parking spaces at the Community Activity Center.

- Option #1: 32 additional stalls north of the Community Activity Center - \$87,400.
- Option #2: 174 additional stalls in the open field southwest of the Community Activity Center - \$412,620.
- Option #3: 58 additional stalls that will be located right next to or just west of the current stalls at the Community Activity Center - \$233,770.
- Option #4: 76 additional stalls in the open field southwest of the Community Activity Center - \$175,050.

After discussion, Councilmember Sievers made a motion, which was seconded by Councilmember Eischeid, approving Option #3 for \$233,770 for 58 additional parking spaces at the Community Activity Center. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Muir, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Karsky who were absent, the Mayor declared the motion carried and the meeting adjourned at 6:35 p.m.

CLAIMS LISTING APRIL 19, 2016



Vendor Name		
ALL-AMERICAN PUBLISHING	POCKET/PROGRAM/SHIRT ADVERTISEMENT	947.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,463.40
APPEARA	LINEN & MAT SERVICE	162.55
BAKER & TAYLOR BOOKS	BOOKS	654.06
BEST BOOKS, INC	BOOK	21.49
BOMGAARS	SWITCHES/BATTERIES/TOOL KITS/BLADES ETC	1,559.67
BROWN SUPPLY CO	GUTTER BROOM/TRAFFIC PAINT	802.25
CARHART LUMBER COMPANY	SIDING/TRIM/CAN LIDS/FASTENERS	3,132.07
CERTIFIED TESTING SERVICES INC	AQUATIC CENTER/BIOSOLIDS	1,530.00
CHARLENE RASMUSSEN	LIBRARY/SR CENTER SPRING CLEAN UP	350.00
CHARTWELLS	SENIOR CENTER MEALS	5,002.80
CHRISTIANSEN CONSTRUCTION	AQUATIC CENTER	227,498.58
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	250.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUNDS	450.00
CITY OF WAYNE	PAYROLL	66,334.67
CITY OF WAYNE	BASKETBALL REFS	1,750.00
CITY OF WAYNE	UTILITY REFUND	125.00
COMMUNITY HEALTH	PAYROLL DEDUCTION	4.00
COPY WRITE PUBLISHING	OFFICE SUPPLIES/SHIPPING CHARGES	240.91
DAVE'S DRY CLEANING	POLICE UNIFORM CLEANING	84.00
DEARBORN NATIONAL LIFE	DISABILITY/LIFE INSURANCE	2,098.04
CITY EMPLOYEE	HEALTH REIMBURSEMENT	151.98
ECHO GROUP INC JESCO	LED SMARTDRIVE/RETROFIT/CONNECTORS	681.65
ELLIS HOME SERVICES	TOILET REPAIR	253.49
ERIKSEN CONSTRUCTION CO, INC	BIOSOLIDS	250,703.47
FLOOR MAINTENANCE	JANITORIAL SUPPLIES	91.57
FRANK SHEDA JR.	LIBRARY/SR CENTER JANITORIAL SERVICES	247.50
FREDRICKSON OIL CO	FUEL OIL/TIRES	827.60
GERHOLD CONCRETE CO INC.	CONCRETE-H. OVERIN	2,106.85
GRAINGER, INC.	SPRING LATCH	13.72
GROSSENBURG IMPLEMENT INC	FILTERS/HOUSING/BATTERY CHARGER	834.73
HANNA:KEELAN ASSOCIATES P.C.	COMPREHENSIVE PLANNING	10,500.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	24.00
ICMA RETIREMENT	RETIREMENT	7,013.74
IRS	PAYROLL TAXES	24,537.83
JOHN'S WELDING AND TOOL LLC	ANCHOR POST	121.93
JORGENSEN CONCRETE & CONST.	EQUIPMENT RENTAL-H OVERIN	1,100.00
KRIZ-DAVIS COMPANY	GREASE/CONNECTORS	379.96
LIBERAL GASKET MFG	GASKETS	551.21
LINDA ANDERSON	LIBRARY/SR CENTER SPRING CLEAN UP	350.00
LUTT OIL	GASOLINE	3,814.81
MAXIMUM SOLUTIONS, INC.	CAC/POOL CARDS	725.00
MAXNET SECURITY	MCAFFEE RENEWAL	1,575.00
MIDTOWN HOLIDAY INN	LODGING-G HANSEN	179.90
MIDWEST LABORATORIES, INC	WASTE WATER ANALYSIS	102.50
MIDWEST SERVICE & SALES	BLADES FOR CASE PLOW	609.80

MILO MEYER CONSTRUCTION	SNOW REMOVAL	425.00
MSC INDUSTRIAL	BITS/PLIERS/SOCKETS/WRENCHES	230.14
CITY EMPLOYEE	HEALTH REIMBURSEMENT	1,343.74
NE DEPT OF REVENUE	PAYROLL TAXES	3,501.60
NE SAFETY COUNCIL	SAFETY VIDEO SHIPPING CHARGES	9.27
NEBRASKA PUBLIC POWER DIST	ELECTRICITY	270,384.07
NEW HORIZONS LLC	CIS-ASBESTOS	7,490.00
NMPP ENERGY	MEMBERSHIP DUES	2,111.50
NORTHEAST NE PUBLIC POWER	ELECTRICITY	5,924.00
NORTHEAST TIRE SERVICE	TIRE REPAIR	86.95
ONE CALL CONCEPTS, INC	DIGGERS HOTLINE	89.76
OTTE CONSTRUCTION COMPANY	GRANDSTAND/BATHROOMS/SIDEWALK PAVING	37,689.00
OVERDRIVE, INC.	AUDIO & E BOOKS	219.92
PAC N SAVE	NDOR OPEN HOUSE COOKIES	20.97
CITY EMPLOYEE	HEALTH REIMBURSEMENT	2,737.22
PROGRESSIVE BUSINESS PUBLICATIONS	SUBSCRIPTION RENEWAL	299.00
QUALITY 1 GRAPHICS	DECALS FOR HELMETS	925.00
SALT CREEK SOFTWARE, INC.	LOAD CONTROL SUPPORT PLAN	2,140.00
SBW, INC	CHAIN SAW PARTS	63.58
SKARSHAUG TESTING LAB INC	CLEAN & TEST GLOVES	372.14
SPARKLING KLEAN	JANITORIAL SERVICE	3,105.57
SPECIALTY RETAIL SHOPS HOLDING CORP	PORTABLE FILE/BATTERIES/JANITORIAL SUPPLIES	87.69
STADIUM SPORTING GOODS	MEN'S BASKETBALL/SOCCER SHIRTS	1,808.75
SUPERCIRCUITS	KEYFOBS	398.70
TAPED EDITIONS, INC	AUDIO BOOKS	450.50
THE PENDER TIMES	SUBSCRIPTION RENEWAL	39.50
TOM'S BODY & PAINT SHOP	SR CENTER BUMPER REPAIR	725.00
TRI-STATE COMMUNICATIONS, INC.	EARPHONE	45.83
TYLER TECHNOLOGIES	INSITE TRANSACTION FEES-UTILITY BILLING	913.75
US BANK	CONFERENCE/LODGING/AIRFARE/BACKUPS/CAMERAS	6,509.22
UTILITIES SECTION	LINEWORKERS SAFETY TRAINING	2,835.00
VAKOC CONSTRUCTION	ANNOUNCER'S BOOTH/DUGOUT/BRESSLER BATHROOM	1,098.06
VAN DIEST SUPPLY	ROUND UP	416.00
VIAREO	CELL PHONES	132.53
WAYNE AUTO PARTS	FILTERS/CLAMPS/SWITCHES	477.35
WAYNE COUNTY CLERK	FILING FEES	10.00
WAYNE COUNTY CLERK	BRIDGE TORNADO DAMAGE	25,594.20
WAYNE COUNTY COURT	BONDS	1,851.50
WAYNE HERALD	ADS AND NOTICES	3,560.78
WAYNE VETERINARY CLINIC	DOG IMPOUND	70.00
WESCO DISTRIBUTION INC	FIRE SAFETY CLOTHING	2,828.71
WIGMAN COMPANY	TOILET REPAIR SUPPLIES	379.76
WISNER WEST	FD GASOLINE	62.00
ZEE MEDICAL SERVICE CO	FIRST AID SUPPLIES	136.23

DELELTE FROM CLAIMS LISTS 3/1/16 & 4/2/16

City of Wayne Kiwanis - Auditorium Deposit Refund \$150.00 (hold deposit)

Ditch Witch - Bullet Blade/Dust Cap \$345.61 (credit card)

Push Pedal Pull - Rubber Floor Mat \$301.57 (double paid)

Wayne Co Clerk - Bridge Tornado Damage \$26154.20 (changed amount)

service pilots. A second large hangar was constructed and a country club house was moved to the airport in April 1943 to enhance the pilot training program. An armed guard to protect the airport was hired in February 1944. After additional land was added, the airport encompassed 110 acres by December 1944.

Airport Improvements

The airport had many improvements in the following years.

1944: Bond issue passed to purchase the airport
1945: 162 acres of airport land became city property.

1951: Rotating beacon installed.

1956: Lighting system on the NE-SW landing strip

1962: Paved NE-SW runway.

1963: New administration building.

1968: New 4 bay T-hangar.

1972: New 6 bay T-hangar.

1975: Wayne Airport Authority established.

1982: New 6 bay T-hangar.

1983: Land acquisition, extend, widen and overlay runway 4/22.

1986: Added land to airport.

1996: Constructed runway 17-35.

2000: Constructed large shop hangar.

2001: Added 4 bays to an existing 6 bay T-hangar.

2007: Replaced lighting on runway 04-22.

2011: Installed charge card fueling system.

2011: Airport renamed Stan Morris Field. Stan serviced on the airport authority for 26 years, retiring in 2001 -- after which he continued to visit the airport daily before passing away on September 18, 2014, at age 98.

2013: New 80x80 hangar and attached GA terminal -- terminal named in honor of Nancy Braden, city financial officer and longtime supporter of the airport. The new terminal / shop hangar was dedicated on August 18 with principal speaker Governor Dave Heineman.

EF4 Tornado

In the blink of an eye, an EF4 tornado tore through the Wayne industrial park and airport on October 4, 2013, destroying all the buildings on the airport, except the 10 bay T-hangar. Fifteen airplanes were destroyed.

Like a phoenix raising from the ashes, the airport was rebuilt in about 10 months with a new 100 x 100 east hangar, new 6 bay T-Hangar, reskin the 10 bay T-hangar, new 4 bay T-Hangar, office, house, terminal and 80 x 80 hangar, AWOS & NDB, segmented circle, beacon, repaired east driveway and relocated the west driveway, addressed drainage issues around the terminal / hangar, installed a new fuel system, new fencing on the south edge of the airport, and added landscaping materials.

Governor Dave Heineman re-dedicated the rebuilt terminal and large shop hangar (and the essentially new airport) on October 3, 2014.

2014 Airport of the Year

The herculean effort by the City of Wayne, airport authority, state aeronautics, and people of Nebraska to rebuild the airport was rewarded when Wayne Municipal Airport -- Stan Morris Field received the Nebraska 2014 Airport of the Year Award on January 29, 2015, at the Nebraska Aviation Symposium.



(Brochure prepared January 2016)

Wayne Municipal Airport



Stan Morris Field

Wayne, NE

Early Aviation at Wayne

The **earliest recorded airplane** flying at Wayne was on August 24, 1919, when the Sioux City Flying Club gave an aerial exhibition at the Country Club under the auspices of the Wayne Commercial Club. Four or five planes were on hand to give an interesting series of exhibitions including air racing, bombing, unique and exciting stunts, and passenger flights.

The **first airplane accident** at Wayne occurred on December 3, 1922, when experienced pilot Alfred Leckscheid and passenger W.M. MacGregor were injured when a "wing stopped working" and the machine plunged from about 200 feet to the ground.

The **first air field** at Wayne was established in 1929 by Guy Strickland and Walter Miller and located one mile east of town on 50 acres of level land leased from J.T. Bressler just north of the country club. They bought one of the newest Curtiss-Robbins monoplanes at a cost of \$4,000 and had it "driven" (flown) from St. Louis by Guy Strickland and Andy Risser of Norfolk — averaging 100 mph — arriving on August 20. The plane had an enclosed cabin and seating for two persons and a "driver" (pilot). A hangar was built and had the town name painted on the roof. Pilot Ralph Robertson was the first airplane instructor.

The **second plane** based at Wayne occurred when Irwin Erxleben bought a new Travel Air plane at Omaha in late August 1929 and brought the machine to the Wayne air field east of town. He also built a hangar at Wayne air field in November 1929.

The **first lengthy airplane** trip occurred on October 17, 1929, when pilot Ralph Robertson flew the new Curtiss-Robin plane belonging to Strickland & Miller 750 miles to Sidney, NE, carrying Mrs. George Schalmus of Brenna precinct and attorney H.E. Siman on the matter of settling an estate. They left Wayne at 6am and flew via Norfolk and North Platte reaching Sidney about 10:30am. They departed Sidney about 2:30pm, made a short stop at North Platte and arrived at Wayne at 7:15pm — flying a short time in the dark. The news story noted the plane flew at 2,000 feet,

and the scenery was extraordinarily beautiful while the weather conditions were ideal throughout the trip.

The **Wayne Chapter of the American Air Cadets** was instituted the week of January 6, 1930, under the direction of Professor E.J. Huntermer. The aim of the Air Cadets was to give practical lessons in airplane construction and to develop "air mindedness." After completing an application and paying a 50-cent membership fee, boys received a model airplane kit and course of lessons in model airplane construction.

The **second airplane accident** at Wayne air field occurred on May 8, 1930, when a plane bought and flown by Dr. V.L. Siman of Winside had a wheel become mired in the mud, flipped over, and threw Siam and a passenger from the plane. Siman left the plane at Wayne air field and sent for a factory specialist to repair the damage estimated to cost \$1,000.

Passenger rides at the rate of 1-cent per pound were offered at Wayne "Airport" on July 27, 1930, starting at 8:30am.

The Strickland & Miller Curtiss-Robin placed second in a 20-mile race at Yankton air field on July 27, 1930. Ralph Robertson was the pilot of the Wayne airplane. Twenty planes and thousands of people attended the air race and exhibition.

The **first airplane tragedy** occurred on May 25, 1931, when pilot Guy Strickland, 42, and Wayne Putnam, 21, Naper student at Wayne College, died in the crash of the Curtiss-Robin. The airplane entered a tail spin at an altitude of 350 feet after takeoff from the Wayne air field. Strickland learned to fly in April 1929.

Municipal Airport

In January-February 1934 the Wayne American Legion and City of Wayne worked together to file an application to establish a municipal airport -- with the federal government furnishing labor and 20% of materials and the city providing a 5-year lease on suitable land. Work on the new airport on land owned by J.T. Bressler (formerly leased to Strickland and Miller), began in March 1934

with labor provided by the CWA (Civil Works Administration). By May the airport had been leveled and seeded to alfalfa. The airport was open for use in June, but still awaited federal funds for a graveled runway and circle for turning planes. In July runway markers and a wind-pole (windsock) were installed.

In April 1940 the Civil Aeronautics Authority proved \$15,000 to improve airport facilities for air training. In May the city renewed its lease for 53 acres from J.T. Bressler for the airport.

The Wayne Airport was officially dedicated on July 28, 1940. Governor R. L. Cochran was the principal speaker, and an estimated 10,000 people attended the dedication. Sixteen planes were on the grounds and many passengers received rides.

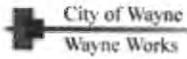
War Effort

The Wayne Airport hosted a Civilian Pilot Training course in conjunction with Wayne State Teachers College starting in June 1940. The first instructor was Stanly G. Fuller of Spearfish, SD. A hangar (53 feet x 58 feet) was constructed at a cost of \$1,000 in July -- capable of housing five small and one large airplane for use in pilot training. A small structure was also built for use as an office and classroom. The first unit of 15 students trained using one plane. Units of students completed flight instruction through the summer of 1941.

Federal regulations required longer runways, so an additional 7.7 acres were added to the airport and electricity provided by March 1941. A small shop was also added.

Wayne Airport was ordered closed and policed December 8, 1941, as were other airports across the U.S., and remained so until the aviators' licenses were approved. A local Civil Air Patrol was formed in early 1942 at Wayne with Stanley Fuller as squadron commander.

Due to the urgency of the war effort, an entirely new civilian pilot training course started July 1, 1942, at Wayne State Teachers College and Wayne Municipal Airport -- providing training for men who will become flying specialists -- instructors, glider pilots, co-pilots, liaison and



Budget Report Account Summary

For Fiscal: 2015-2016 Period Ending: 03/31/2016

		Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Used
Fund: 700 - AIRPORT							
Revenue							
Department: 100 - Property Taxes							
700-100-312000	PROPERTY TAXES	81,189.00	81,189.00	984.21	13,560.73	-67,628.27	16.70 %
700-100-312001	Property tax credit state	0.00	0.00	1,880.74	1,880.74	1,880.74	0.00 %
Department: 100 - Property Taxes Total:		81,189.00	81,189.00	2,864.95	15,441.47	-65,747.53	19.02 %
Department: 104 - FRANCHISE FEES							
700-104-351000	HOMESTEAD EXEMPTION	0.00	0.00	440.21	440.21	440.21	0.00 %
Department: 104 - FRANCHISE FEES Total:		0.00	0.00	440.21	440.21	440.21	0.00 %
Department: 105 - OTHER							
700-105-355000	MOTOR VEHICLE PRORATE TAX ALL	170.00	170.00	0.00	52.78	-117.22	31.05 %
Department: 105 - OTHER Total:		170.00	170.00	0.00	52.78	-117.22	31.05 %
Department: 106 - INTEREST INCOME							
700-106-421000	INTEREST ON INVESTMENTS	100.00	100.00	56.40	312.67	212.67	312.67 %
Department: 106 - INTEREST INCOME Total:		100.00	100.00	56.40	312.67	212.67	312.67 %
Department: 591 - AIRPORT							
700-591-358001	NEMA REIMBURSEMENTS	0.00	0.00	8,540.59	8,540.59	8,540.59	0.00 %
700-591-390000	AERIAL APPLICATORS PERMIT	2,000.00	2,000.00	0.00	2,000.00	0.00	100.00 %
700-591-391000	RENTALS	51,977.00	51,977.00	161.00	26,154.03	-25,822.97	50.32 %
700-591-392000	FARM INCOME	54,802.00	54,802.00	24,900.75	49,801.50	-5,000.50	90.88 %
700-591-393000	AvGas sales	102,000.00	102,000.00	2,536.16	20,432.05	-81,567.95	20.03 %
700-591-394000	MISCELLANEOUS	100.00	100.00	0.00	75.00	-25.00	75.00 %
Department: 591 - AIRPORT Total:		210,879.00	210,879.00	36,138.50	107,003.17	-103,875.83	50.74 %
Revenue Total:		292,338.00	292,338.00	39,500.06	123,250.30	-169,087.70	42.16 %
Expense							
Department: 591 - AIRPORT							
ExpCategory: 20 - Contract Services							
700-591-20000	AIRPORT UTILITIES	19,160.00	19,160.00	2,312.96	8,844.44	10,315.56	46.16 %
700-591-21000	AIRPORT TELEPHONE	2,460.00	2,460.00	237.03	1,474.47	985.53	59.94 %
700-591-24000	AIRPORT OTHER CONTRACT SERV	30,000.00	30,000.00	2,500.00	15,000.00	15,000.00	50.00 %
700-591-24004	HANGER/Terminal LOAN	14,392.00	14,392.00	1,182.00	7,092.00	7,300.00	49.28 %
700-591-24005	City Loan	36,531.00	36,531.00	0.00	17,500.00	19,031.00	47.90 %
ExpCategory: 20 - Contract Services Total:		102,543.00	102,543.00	6,231.99	49,910.91	52,632.09	48.67 %
ExpCategory: 30 - Commodities							
700-591-30000	AIR OFFICE SUPPLIES	125.00	125.00	0.00	0.00	125.00	0.00 %
700-591-31000	AIR PRINTING	100.00	100.00	0.00	0.00	100.00	0.00 %
700-591-32000	AIR PUBLICATIONS	1,500.00	1,500.00	14.32	164.95	1,335.05	11.00 %
700-591-33000	AIR - PROMOTIONS & ADVERTISIN	2,400.00	2,400.00	0.00	595.00	1,805.00	24.79 %
700-591-35000	AIR POSTAGE	350.00	350.00	18.84	56.80	293.20	16.23 %
700-591-37000	AIR PROFESSIONAL SERVICES	17,350.00	17,350.00	0.00	676.00	16,674.00	3.90 %
700-591-38000	AIR INSURANCE	18,513.00	18,513.00	0.00	5,718.38	12,794.62	30.89 %
700-591-43000	AIR COMMUNICATIONS MAINTENA	200.00	200.00	0.00	0.00	200.00	0.00 %
700-591-44000	AIR RENTS & LEASES	6,528.00	6,528.00	543.33	3,259.98	3,268.02	49.94 %
700-591-45000	AIR MISCELLANEOUS	150.00	150.00	0.00	0.00	150.00	0.00 %
700-591-47000	AIR MEMBERSHIP & DUES	350.00	350.00	0.00	350.00	0.00	100.00 %
700-591-48000	AIR TRAVEL, CONF & MEETINGS	2,000.00	2,000.00	338.12	670.48	1,329.52	33.52 %
700-591-55000	AIR VEHICLE MAINTENANCE	3,500.00	3,500.00	0.00	52.00	3,448.00	1.49 %
700-591-56000	AIR VEHICLE EXPENSE	5,000.00	5,000.00	259.30	926.94	4,073.06	18.54 %
700-591-56001	Air - AvGas	120,000.00	120,000.00	10,254.36	24,919.86	95,080.14	20.77 %
700-591-57000	AIR EQUIP & OPERATING EXP	15,000.00	15,000.00	219.66	2,041.61	12,958.39	13.61 %

Budget Report

For Fiscal: 2015-2016 Period Ending: 03/31/2016

		Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Used
<u>700-591-58000</u>	AIR MAINT- BUILDING & GROUNDS	15,000.00	15,000.00	174.43	1,141.18	13,858.82	7.61 %
<u>700-591-64005</u>	AIR INTEREST DEDEMPTION	0.00	0.00	0.00	918.75	-918.75	0.00 %
	ExpCategory: 30 - Commodities Total:	208,066.00	208,066.00	11,822.36	41,491.93	166,574.07	19.94 %
	ExpCategory: 80 - Capital Outlay						
<u>700-591-80000</u>	AIRPORT BUILDINGS	20,000.00	20,000.00	23,434.34	34,381.70	-14,381.70	171.91 %
	ExpCategory: 80 - Capital Outlay Total:	20,000.00	20,000.00	23,434.34	34,381.70	-14,381.70	171.91 %
	Department: 591 - AIRPORT Total:	330,609.00	330,609.00	41,488.69	125,784.54	204,824.46	38.05 %
	Expense Total:	330,609.00	330,609.00	41,488.69	125,784.54	204,824.46	38.05 %
	Fund: 700 - AIRPORT Surplus (Deficit):	-38,271.00	-38,271.00	-1,988.63	-2,534.24	35,736.76	6.62 %
	Report Surplus (Deficit):	-38,271.00	-38,271.00	-1,988.63	-2,534.24	35,736.76	6.62 %

MULTI SERVICE AVIATION
WAYNE MUNICIPAL AIRPORT
2304 E HIGHWAY 35, WAYNE NE 68787

	INVOICE FUEL QTY	PROC TOTAL	AMOUNT FEE	INVOICE DUE AIRPORT	COST	PROFIT
Oct-14	2,406.78	\$ 11,453.90	\$ 244.25	\$ 11,209.65	\$ 10,581.44	\$ 628.21
Nov-14	698.95	\$ 3,326.30	\$ 72.58	\$ 3,253.72	\$ 3,071.89	\$ 181.83
Dec-14	145.64	\$ 693.10	\$ 14.96	\$ 678.14	\$ 640.09	\$ 38.05
Jan-15	603.09	\$ 2,870.09	\$ 51.41	\$ 2,818.68	\$ 2,605.58	\$ 213.10
Feb-15	306.87	\$ 1,460.40	\$ 27.95	\$ 1,432.45	\$ 1,348.69	\$ 83.76
Mar-15	1,268.71	\$ 5,119.52	\$ 99.18	\$ 5,020.34	\$ 5,142.04	\$ (121.70)
Apr-15	1,463.73	\$ 5,853.47	\$ 83.01	\$ 5,770.46	\$ 5,121.59	\$ 648.87
May-15	1,172.65	\$ 4,689.45	\$ 58.11	\$ 4,631.34	\$ 4,103.10	\$ 528.24
Jun-15	1,612.79	\$ 6,449.54	\$ 129.17	\$ 6,320.37	\$ 5,716.15	\$ 604.22
Jul-15	8,947.59	\$ 35,770.57	\$ 580.47	\$ 35,200.56	\$ 33,994.75	\$ 1,205.81
Aug-15	4,469.12	\$ 18,526.78	\$ 218.27	\$ 18,308.51	\$ 17,812.48	\$ 496.03
Sep-15	3,063.24	\$ 12,740.03	\$ 275.15	\$ 12,464.88	\$ 11,616.25	\$ 848.63
	26,159.16	\$ 108,953.15	\$ 1,854.51	\$ 107,109.10	\$ 101,754.05	\$ 5,355.05
Oct-15	1,504.05	\$ 6,255.30	\$ 134.56	\$ 6,120.74	\$ 5,557.46	\$ 563.28
Nov-15	1,305.76	\$ 5,312.96	\$ 62.39	\$ 5,250.57	\$ 4,550.47	\$ 700.10
Dec-15	630.16	\$ 2,520.02	\$ 54.43	\$ 2,465.59	\$ 2,053.69	\$ 411.90
Jan-16	284.17	\$ 1,136.39	\$ 24.55	\$ 1,111.84	\$ 926.11	\$ 185.73
Feb-16	413.69	\$ 1,654.35	\$ 35.72	\$ 1,618.63	\$ 1,320.17	\$ 298.46
Mar-16	533.62	\$ 2,021.25	\$ 37.72	\$ 1,983.53	\$ 1,739.07	\$ 244.46
Apr-16	261.09	\$ 892.67	\$ 19.27	\$ 873.40	\$ 850.89	\$ 22.51
May-16						
Jun-16						
Jul-16						
Aug-16						
Sep-16						
	4,932.54	\$ 19,792.94	\$ 368.64	\$ 19,424.30	\$ 16,997.86	\$ 2,426.44

	# of credit cards 2010-11	gallons sold 2010-11	# of credit cards 2011-12	gallons sold 2011-12	# of credit cards 2012-13	gallons sold 2012-13	# of credit cards 2013-14	gallons sold 2013-14	# of credit cards 2014-15	gallons sold 2014-15	# of credit cards 2015-16	gallons sold 2015-16
Oct			12	390.10	13	309.70	11	92.10	62	2,406.78	49	1504.05
Nov			14	439.55	13	573.60	0	-	18	698.95	26	1305.76
Dec			18	380.90	24	734.10	0	-	6	145.64	16	630.16
Jan			18	334.91	9	312.10	8	431.92	30	603.09	11	284.17
Feb			14	386.40	7	308.00	3	223.28	17	306.87	13	785.68
Mar	12	311.36	21	506.10	12	398.40	6	661.30	39	1,268.71	22	533.62
Apr	18	524.16	23	748.50	20	675.60	17	720.12	36	1,463.73	8	884.68
May	8	150.61	18	453.50	27	928.50	26	1,304.37	26	1,172.65		
June	15	294.34	25	575.70	32	1,517.40	43	1,453.42	51	1,612.79		
July	13	1,255.09	42	1,134.40	13	3,043.16	149	5,737.26	229	8,947.59		
Aug	16	1,629.05	32	982.70	89	4,353.90	112	4,424.58	93	4,469.12		
Sept	13	3,324.90	23	486.90	58	2,603.23	75	2,664.14	93	3,200.54		
	95	7,489.51	260	6,819.66	317	15,757.69	450	17,712.49	700	26,296.46	145	5,928.12

Comments from AirNav users

From Duffy Fainer on 02-Sep-2015

What a great experience. Gives me hope that GA might survive. As everyone has stated, Jim is a great host, the courtesy van is wonderful, and the airport made a miraculous recovery from the tornado. I would detour to stop here again for the hospitality, as well as some of the lowest priced fuel in the USA.

From Robert McMeekin on 06-Aug-2015

Stopped for cheap fuel on 7/30/15 and was very pleasantly surprised to find a really nice airport facilities. Nice runways, easy to use self service fuel, keypad access to new-looking FBO building with food in refrigerator. Niece drove down from SUX, so we did not need crew car. Looks like crop duster is primary operation from airport, but they know how to treat transients well! Jim Hoffman helped with fueling and info about facility and local area. Thank you, Jim!

From Craig Jackson on 02-Aug-2015

Stopped in with my son for a quick refuel recently and had another great experience. Clean excellent facilities, and the gentleman running the place couldn't have been more pleasant and helpful. Wayne has consistently lowest fuel price in the area. This is my idea of what an FBO should be and has become our regular fuel stop between Idaho and the Chicago area.

From Curtis Phillips on 28-Jul-2015

This is the best stop in the Midwest. Fuel prices were significantly lower than any advertised price within 200nm. The on-airport caretakers are wonderful hosts. During Oshkosh, they offered free deli sandwiches from a local deli. The facilities are modern, clean, and very well cared for. An absolute must-stop if you are in the area.

From Howard Page on 23-Jul-2015

Jim at Wayne, NE is the best. Would rate it six stars if I could! Much appreciated. Thanks.

From Ellen & Kevin Schneider on 22-Jun-2015

Very nice FBO! Recently in the area visiting family and decided Wayne was the best place to land. Service was great...Thanks Jim! See you next trip.

From Owen Smith on 21-Aug-2014

Excellent facilities. Very nice self-service fuel at an excellent price. Regular management was on vacation, so local crop dusters were manning the office. Borrowed courtesy van overnight for transportation to hotel. Stayed at Sportsclub, which it seems mainly caters to football fans. Closest motel to airport and an exceptional value. Comfortable rooms, good AC, satellite TV and WiFi. What more could you want?

From Sue Wolber on 03-Aug-2014

Stopped at Wayne NE July 25 and July 29, 2014 on the way to and from Oshkosh. VERY friendly folks, Jim went out of his way to find a sectional chart for me when my iPad was freaking out. Cheapest fuel anywhere between Colorado and Oshkosh! All new facilities after the tornado...

N NUMBER	Date	PILOT NAME/Address	comments
3157A	8/20/15	Chris & Kathryn Mullins	Beautiful facility & will appreciate the fuel price we paid.
109AF	8/22/15	Don DILLMAN	Great stop! Thanks!!
252BL	8/23	Steve Burnett Wheatland WY	Fantastic F30 & we LOVE Luvya!!
365PS	8/24	Duff Farmer San Dimas CA	Awesome. Appreciate your hard work
49078	8/30	Crystal Bond Poughkeepsie NY 518-330-2307	Wonderful airport, beautifully maintained everyone is so
811J3	8/30	Van Duskirk ND	Pleasure to have visited hospitable
N9923H	8/31/2015	TED MILLER SANTA ROSA, CA	STEARMAN ON TRANK CONTINENTAL TOUR
N2980C	9/1/2015	Rettie & Allison Yeaman Charlottesville, VA	Such a pleasant stop on our way out to VA - Thank you!!
49078	9/1/2015	Zan Zastrow	Beautiful facility, great people - lovely experience!
	9/3/2015	STONE ET FRIZZELL	AWESOME SERVICE
403R	9-3-15	Jan + Jim Rodrian - Grafton VT	Grafton VT
N853C	9-3-15	Tom ANDERSON	AWESOME AIRPORT!
5800P	4-3-15	Chris Cencula	Beautiful facility GOOD FUEL PRICE TOO
221ST	9-4-15	Jeff Skiles	fantastic facility
9602Y	9-6-15	Frank & Regina Rhodes	1st visit since from Va Beach. Beautiful facility
4537G	9-6-15	Katrina Hallgren Barry Pomeroy	From Seattle, Beautiful Place!

N NUMBER	Date	PILOT NAME/Address	comments
N117DF	7-29-15	TOM & MARY MAYBEC-Roseville, CA	GOOD JOB! Awesome facility!
N2465C	7-29-15	TIM & DEB TOAL MILAN, IL	GREAT STOP THANKS ALOT
N494RM	7/29/15	Roland Manarin Omaha Epic	Great service!
N474ZF	7/30/15	KEVIN CAID MINDEN, NV	GREAT COFFEE - THANKS
45829	7-30-15	Scott Simon	Great as always!
81347	7-31-15	K. TUSAIA CREIGHTON, NE	THANKS.
N1006A	8-1-15	Cooper, Denver	Great Airport + FISO. ^{will stop!}
N93974	8-2-15	CAR OUT = 3 PM (Lunch) FATR IN = 4 PM (PILT) HOWARD ABRAMSON	WOW - NICE JOB, WAYNE 970-412-5669 (cell)
N52KM	8-3-15	K Griffith, Longmont, CO	UDDER DELIGHT FOR LUNCH VERY GOOD!
N14MB	8-11	CRAIG JACKSON Doubt Feas. ID	EXCELLENT STOP, THANKS
N66LM	8/11	David Mitjusch	Great spot!
N666BK	8/13	ADIL QUIYER	NICE AIRPORT!
P4766Z	8-14-15	MIKE MILO	Show how much CLASS IN THIS TOWN! AWESOME
N14MB	8-16	CRAIG JACKSON	
7085M	8-16-15	Brandon Q. Massey Rachel Lewis McKinnon Hoelke	
N346CP	8-20-15	Torben Kiese S. Minneapolis	Awesome airport

3/6/15

N NUMBER	Date	PILOT NAME/Address	comments
N73265	7/26/15	Jerry SICKAFOOSE	Extended time visit Niswangee CA (C)
N94623	7-26-15	David Riffel Curtis Phillips	You guys are awesome!!! Thanks for your hospitality.
N13LW	26 Jul 15	Lee & Alfred Lee Belding	What a great stop!
N67255	7/26/15	Pam DENNIS & BRUN BEADON	GREAT STOP! THANK you
N5120W	7/26/	Old Lake	Nice Airport!
N7803B	7/26	Dan + Kathy Metz	Thank you!
N49XM	7-26	Mike McLean California, Modesto	Nice place
49xm	7-26	Mitch ADAMS Ripon CA	Awesome fuel prices
N30061	7/26	Feilers 307-267-2411	Great stop!
N2465C	7/26	Tim + DEB TOAL MILAN, IL	EVERYTHING WAS SUPER NICE!
N14MB	7/26	CRAIG JOHNSON	Excellent - THANKS
N88314	7/26	Peter Black / KBDU	Best FBO Service <u>EVER</u>
N4660B	7/26	Orlo Ellison / KBJC	More enough trips. This place is a gem.
N20605	7/27	C. Bangs Palo Alto, CA	You guys are awesome!
N94796	7/27	SKYCHICK - PANAMA DAVID WOOD COX	Will go in the memory file AS ONE OF THE GREATEST AIRPORTS TO SPEND SOME TIME
6385E	28 July	Steve & Janet JD	Great facilities

N NUMBER	Date	PILOT NAME/Address	comments
N592SM	7/25/15	MIKE CRAVE ELBERT, CO	THANK YOU !!
N9WK	7/25/15	RICK (STEWART)	
N878RV	7/25/15	Robert Vashel Aurora	Thanks!!
376RH	7/25/15	Tim Roberts AURORA	
34ML	7/25/15	Jim Dyer ^{Brighton} CO	Thanks for the sandwich
N250IK	7/25/15	BILL SCHMANSKI 7000	THANKS FOR LUNCH!
N76VT	7/25/15	MARK VAN TINE Tom LETTS	FANTASTIC STOP!
N528CC	7/25/15	Henry Guernsey Oak Park, IL	
N41593	7/25/15	Dan Gerszewski ^{Scott} Logan, Utah	Great Hospitality Best fuel prices around.
N122RS	7/25/15	MICHAEL ROGERS RIC BLAMER	AWESOME! THX JIM
N321GT	7/25/15	CRAIG BENNETT AMARILLO, CA	GREAT FBO/AIRPORT
N3961	7/25	Paul Doyle Boulder CO	Great
N4755A	7/25	Dustin Jones Placerville, CA	Awsome field & FBO!
N544M	7/25	MAT & JACKSON MITCHELL	THANK YOU!
N48443	7/25/15	BRIAN CHRISTIAN ^{Colorado Springs} KARINA CHRISTIAN	BEST FBO YET!
N35051	7/26/15	JP Soldo	Great service

**CITY OF WAYNE
INTEROFFICE MEMORANDUM**

DATE: April 5, 2016

TO: Mayor Chamberlain
Wayne City Council

FROM: Wayne Planning Commission
Joel Hansen, Staff Liaison 

At their meeting held on April 4, 2016 the Wayne Planning Commission made recommendations on the following public hearing and discussion items; the result of those recommendations is as follows:

Public Hearing: Kardell East 14th Addition Final Plat – Virgil Kardell

The Planning Commission took evidence and testimony from the public and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Giese to approve and forward a recommendation of approval to the City Council approving the Kardell East 14th Addition Final Plat, with the findings of fact being consistency with the Comprehensive Plan and the current and future land use maps. Chair Melena stated the motion and second. All were in favor, motion carried to approve.

JJH:cb
Attachment

From: Joel Hansen
To: Virg Kardell
CC: Lowell Johnson; Betty McGuire
Date: 4/7/2016 9:54 AM
Subject: Re: Annexation - 3rd reading on zoning change

Thank you Virg. I have copied Lowell and Betty so they have your request for the Council.

Joel J. Hansen,
Inspector/Planner/Street Supt.
City of Wayne
306 Pearl Street
Wayne, NE 68787
Phone (402) 375-1733
Fax (402) 375-1619

>>> Virg Kardell <virg@kardell.com> 4/7/2016 8:31 AM >>>
To: Wayne City Council,
cc: Joel Hansen

I'm writing to request that the council approve the "Kardell East 14th Street Addition" at the next City Council Meeting and that the council **would annex the property into the Wayne City Limits**. In addition I would also like to request that the council waive the 3rd reading on the zoning change on the "Kardell East 14th Street Addition" at the April 19th council meeting.

I appreciate your consideration in this matter, thank you!

Virgil L. Kardell

--

Virgil L. Kardell
(402) 990-3287

57381 S. Willers Cove
Pilger, NE 68768

RESOLUTION NO. 2016-24

A RESOLUTION APPROVING THE FINAL PLAT FOR THE “KARDELL EAST 14TH STREET ADDITION.”

WHEREAS, the Planning Commission, upon review of the Final Plat of the “Kardell East 14th Street Addition,” legally described as:

Legal Description:

Beginning at the SE corner of the NE ¼ of Section 7, T26N, R4E Wayne County, Nebraska, said point being the Point of Beginning; thence north along the east edge of said section, 325’; thence west along a line parallel to the north edge of said section, 1,312’ to the east side of Vintage Hills First Addition to the City of Wayne; thence south along the east line of Vintage Hill First Addition to the south edge of the NE ¼ of Section 7, T26N, R4E, 325’; thence east along the south edge of the NE ¼ of Section 7, T26N, R4E, 1,314’ to the Point of Beginning,

on April 4, 2016, recommended approval thereof, based upon the following “Finding of Fact:”

- Consistency with the current and future land use maps.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Final Plat of the “Kardell East 14th Street Addition” be approved subject to the recommendations of the Planning Commission and the foregoing “Finding of Fact.”

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

ORDINANCE NO. 2016-4

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF PROPERTY LOCATED IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, FROM R-1 RESIDENTIAL DISTRICT TO B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska.

Section 1. That the real estate area shown on the attached map be changed and rezoned from R-1 (Residential) to B-3 (Neighborhood Commercial). The area being rezoned is described as:

Beginning at the SE corner of the NE¼ of Section 7, T26N, R4E of the 6th P.M., Wayne County, Nebraska; said point being the point of beginning; thence north along the east edge of said section, 313'; thence west along a line parallel to the north edge of said section, 1,312' to the east side of Vintage Hills First Addition to the City of Wayne; thence south along the east line of Vintage Hills First Addition to the south edge of the NE¼ of Section 7, T26N, R4E, 313'; thence east along the south edge of the NE¼ of Section 7, T26N, R4E, 1,314' to the point of beginning.

Section 2. That the Planning Commission held a public hearing on March 7, 2016, regarding this rezoning request, and have recommended approval thereof subject to the following "Finding of Fact" - Consistency with the Comprehensive Plan and the current and future land use maps.

Section 3. The official zoning map shall be forthwith changed by the zoning officials to properly show the real estate hereinabove described as now in a B-3 (Neighborhood Commercial District) zone.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this _____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-25

A RESOLUTION ACCEPTING A PLAN TO EXTEND CITY SERVICES AND SETTING A PUBLIC HEARING ON THE PROPOSED ANNEXATION AREA TO THE CITY OF WAYNE.

WHEREAS, Section 16-117 N.R.S. 1943 (R.S. Supp. 1990) grants the authority for Cities of the First Class to annex, by ordinance, any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as said City may deem proper; and

WHEREAS, the owner of certain property, contiguous and adjacent to the City, has requested the annexation of the property; and

WHEREAS, the City of Wayne, Nebraska, desires to exercise said power by annexing contiguous and adjacent land as subsequently described herein.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of Wayne, Nebraska, that the City of Wayne is considering the annexation of land and a plan for extending City services to said land, as the same has been requested by the property owner; that a public hearing be held on the 3rd day of May, 2016, at or about 5:30 P.M. in the Council Chambers of Wayne, Nebraska, located in the Municipal Building at 306 Pearl Street, Wayne, Nebraska, for the purpose of receiving testimony from interested persons; and that the legal description of the land proposed for annexation is as follows:

Beginning at the SE corner of the NE $\frac{1}{4}$ of Section 7, T26N, R4E Wayne County, Nebraska, said point being the Point of Beginning; thence north along the east edge of said section, 325'; thence west along a line parallel to the north edge of said section, 1,312' to the east side of Vintage Hills First Addition to the City of Wayne; thence south along the east line of Vintage Hill First Addition to the south edge of the NE $\frac{1}{4}$ of Section 7, T26N, R4E, 325'; thence east along the south edge of the NE $\frac{1}{4}$ of Section 7, T26N, R4E, 1,314' to the Point of Beginning.

BE IT FURTHER RESOLVED, that the plan of the City of Wayne, Nebraska, for the extension of City services to the aforescribed land proposed for annexation is available for public inspection during regular business hours in the office of the City Clerk at 306 Pearl Street, Wayne, Nebraska.

PASSED AND APPROVED this 19th day of April, 2016.

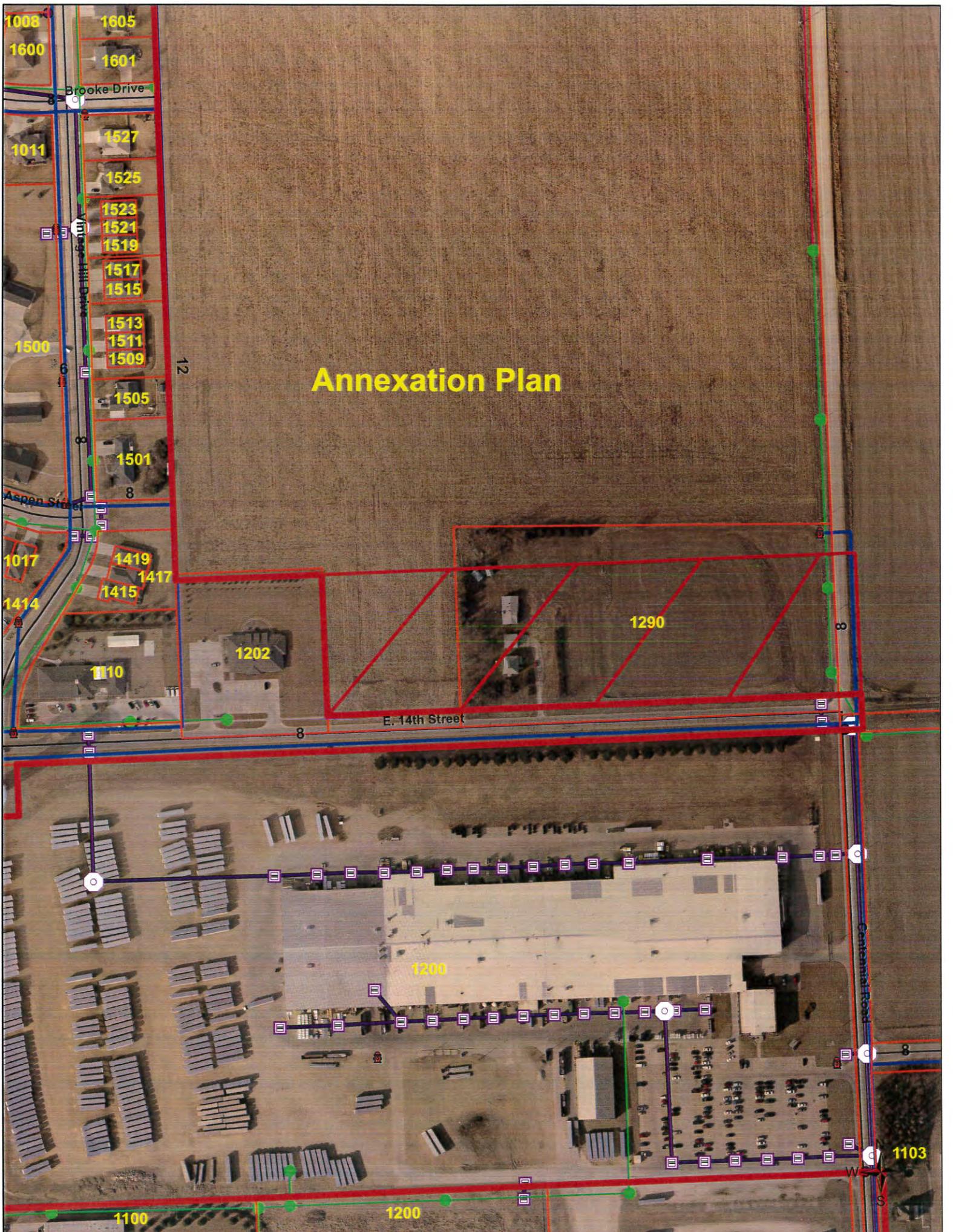
THE CITY OF WAYNE, NEBRASKA,

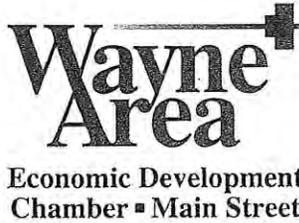
By _____
Council President

ATTEST:

City Clerk

Annexation Plan





April 5, 2016

Chief of Police
City of Wayne
306 Pearl St.
PO Box 8
Wayne, NE 68787

Dear Chief:

On behalf of the Chicken Show Committee, this letter is a request for three (3) separate street closures during the 36th Annual Chicken Show, Friday and Saturday, July 8 and 9, 2016.

On Friday, July 8 the Committee is requesting the closure of the following streets from 2:30 pm until 2 am for the Annual Henoween celebration: Main Street from 1st Street to the alley between 3rd & 4th Street; 2nd and 3rd Streets from the alley west of Main Street to the alley east of Main Street.

On Saturday, July 9, the Committee is requesting the closure of the following streets from 6:00 am until 5:00 pm, for the Annual Chicken Show celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln and Douglas Streets from 10th Street to 8th Street. Intersections at 10th and Douglas and 10th and Lincoln Streets and 9th and Lincoln are requested to be closed.

Finally, the Committee is requesting the closure of the following streets on Saturday, July 9 for the Annual Chicken Show Parade from 9:00 am until 11:30 am (or until the end of the parade): Main Street from 1st Street to 10th Street (including intersections) and 10th Street from Main Street to Lincoln Street. Lincoln Street from 10th Street to 7th Street will also be used for the parade.

We ask that all street closures be properly identified adequately prior to the street closing so that event set-up is not delayed. The committee suggests that signs be installed early Friday morning for downtown, and Friday evening for Bressler Park and the parade route on 10th and Lincoln Streets.

Additional events on Sunday, July 10, will not require street closure.

The Chicken Show Committee appreciates your assistance during this event. Please contact us at 402-375-2240 if you have any questions or concerns regarding these requests.

Sincerely,

A handwritten signature in cursive script that reads "Irene Fletcher".

Irene Fletcher
Assistant Director

RESOLUTION NO. 2016-26

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS' REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

WHEREAS, the annual Wayne Henoween Celebration will be held on Main Street between the north side of the intersection from 1st Street to the south side of the intersection of 4th Street on July 8, 2016, from 2:30 p.m. to 2:00 a.m. (July 9, 2016), at which time the City will relinquish control of this section of Highway 15 back to the Nebraska Department of Roads; and

WHEREAS, the annual Wayne Chicken Show parade will be held on Main Street from 1st Street to 10th Street, including the intersections, on July 9, 2016, from 9:00 a.m. until 11:30 a.m., at which time the City will relinquish control of this section of Highway 15 back to the Nebraska Department of Roads; and

WHEREAS, the Wayne Area Chamber of Commerce, in compliance with City of Wayne policy for events held on public right-of-way, will provide special events insurance coverage for both events to indemnify, defend, and hold harmless the City of Wayne and the State of Nebraska from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event; and

WHEREAS, during the above time periods of these events, the City of Wayne acknowledges all duties set out in subsection (2) of LB589/N.R.S. Section 39-1359.

NOW, THEREFORE, BE IT RESOLVED, that during the above time periods of these events, the City of Wayne, Nebraska, accepts and will carry out all duties set out in subsection (2) of LB589/N.R.S. Section 39-1359; and

BE IT FURTHER RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that if a claim is made against the State of Nebraska, it shall indemnify, defend, and hold harmless the State from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

[Back to Top](#)

RESOLUTION NO. 2016-16

**A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
“COMMUNITY ACTIVITY CENTER CARPET REPLACEMENT PROJECT.”**

WHEREAS, two competitive bids were received on April 13, 2016, for the “Community Activity Center Carpet Replacement Project;” and

WHEREAS, city staff has reviewed the bids and is recommending that the project be awarded to PCF, LLC.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the bid for the “Community Activity Center Carpet Replacement Project,” as submitted by the following contractor, is reasonable and responsive, and the same is hereby accepted:

<u>Bidder</u>	<u>Amount of Bid</u>
PCF, LLC Dale Phipps	\$27,499.00

BE IT FURTHER RESOLVED that the bid, as above set forth, filed with the City Clerk in accordance with the terms of the published notice, and attached hereto, be and the same is hereby accepted.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

City of Wayne
Wayne Community Activity Center
901 W. 7th St.
Wayne Ne. 68787

Project overview

Remove and dispose existing carpet in all carpeted areas
Remove and dispose all existing cove base in carpeted areas
Remove and dispose ceramic tile in lobby area
Install Milliken carpet
Install Roppe Cove Base

City of Wayne

City of Wayne is a tax exempt institution and will provide the appropriate forms to the contractor upon request for the purchase of materials for this project.

Project Time Line

The project must be completed by June 1 2016

Specified Materials

Field Carpet: Milliken Remix 2.0 Trimline Backbeat BKB 135 -131 Rumble
25% of 4 accent colors: 134 Star Fruit, 135 Tangerine, Custom MSF 153, Custom MSL 170
Provide 10 additional of any of the listed carpet tiles for future damage replacement

Entry carpet (63 tiles to be installed where existing ceramic tile is) Milliken Quadrus Orbit Brush ORB144-27.

Roppe 4" cove base with toe color 150 Dark Grey

Terms and Conditions

All proposal prices shall include shipping, quoted FOB destination Wayne Community Activity Center
Proof of \$1 million Liability Insurance with City of Wayne indemnified and named as "Also Insured"
Bidder company: PCF LLC

Bidder Signature: X [Signature] Date: 4-12-16

Bid Form

Deadline for submittal of bid: April 13, 2016 at 5pm in City Clerk Office

Bid: twenty seven thousand four hundred ninety nine dollars ^{10/100} Dollars (\$ 27,499.⁰⁰)

City of Wayne
Wayne Community Activity Center
901 W. 7th St.
Wayne Ne. 68787

Project overview

Remove and dispose existing carpet in all carpeted areas
Remove and dispose all existing cove base in carpeted areas
Remove and dispose ceramic tile in lobby area
Install Milliken carpet
Install Roppe Cove Base

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Provide 10 additional of any of the listed carpet tiles for future damage replacement

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Roppe 4" cove base with toe color 150 Dark Grey

Terms and Conditions

All proposal prices shall include shipping, quoted FOB destination Wayne Community Activity Center
Proof of \$1 million Liability Insurance with City of Wayne indemnified and named as "Also Insured"

Bidder Signature: _____

Date: 4-12-2016

Bid Form

Deadline for submittal of bid: April 13, 2016 at 5pm in City Clerk Office

Bid: _____

Thirty Thousand, Four Hundred Sixty-Four

and 37/100

Dollars (\$ 30,464.37)

SEWER

Meter Size	Current		Proposed Outside Rates									
	Inside Rates	Outside Rates	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3
3/4"	\$ 8.00	\$ 16.00	\$ 16.80	\$ 17.60	\$ 18.40	\$ 19.20	\$ 20.00	\$ 20.80	\$ 21.60	\$ 22.40	\$ 23.20	\$ 24.00
1	\$ 11.75	\$ 23.50	\$ 24.68	\$ 25.85	\$ 27.03	\$ 28.20	\$ 29.38	\$ 30.55	\$ 31.73	\$ 32.90	\$ 34.08	\$ 35.25
1 1/4	\$ 16.50	\$ 33.00	\$ 34.65	\$ 36.30	\$ 37.95	\$ 39.60	\$ 41.25	\$ 42.90	\$ 44.55	\$ 46.20	\$ 47.85	\$ 49.50
1 1/2	\$ 22.25	\$ 44.50	\$ 46.73	\$ 48.95	\$ 51.18	\$ 53.40	\$ 55.63	\$ 57.85	\$ 60.08	\$ 62.30	\$ 64.53	\$ 66.75
2	\$ 37.00	\$ 74.00	\$ 77.70	\$ 81.40	\$ 85.10	\$ 88.80	\$ 92.50	\$ 96.20	\$ 99.90	\$ 103.60	\$ 107.30	\$ 111.00
3	\$ 80.00	\$ 160.00	\$ 168.00	\$ 176.00	\$ 184.00	\$ 192.00	\$ 200.00	\$ 208.00	\$ 216.00	\$ 224.00	\$ 232.00	\$ 240.00
4	\$ 138.00	\$ 276.00	\$ 289.80	\$ 303.60	\$ 317.40	\$ 331.20	\$ 345.00	\$ 358.80	\$ 372.60	\$ 386.40	\$ 400.20	\$ 414.00
6	\$ 307.00	\$ 614.00	\$ 644.70	\$ 675.40	\$ 706.10	\$ 736.80	\$ 767.50	\$ 798.20	\$ 828.90	\$ 859.60	\$ 890.30	\$ 921.00
Rate Per 1000 Gallons	\$ 6.35	\$ 12.70	\$ 13.34	\$ 13.97	\$ 14.61	\$ 15.24	\$ 15.88	\$ 16.51	\$ 17.15	\$ 17.78	\$ 18.42	\$ 19.05
Revenue	\$ 24,533.00	\$ 49,066.00	\$ 51,519.30	\$ 53,972.60	\$ 56,425.90	\$ 58,879.20	\$ 61,332.50	\$ 63,785.80	\$ 66,239.10	\$ 68,692.40	\$ 71,145.70	\$ 73,599.00
Difference	\$ 2,453.30	\$ 4,906.60	\$ 7,359.90	\$ 9,813.20	\$ 12,266.50	\$ 14,719.80	\$ 17,173.10	\$ 19,626.40	\$ 22,079.70	\$ 24,533.00		

WATER

Meter Size	Current		Proposed Outside Rates									
	Inside Rates	Outside Rates	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3
3/4"	\$ 16.00	\$ 32.00	\$ 33.60	\$ 35.20	\$ 36.80	\$ 38.40	\$ 40.00	\$ 41.60	\$ 43.20	\$ 44.80	\$ 46.40	\$ 48.00
1	\$ 22.75	\$ 45.50	\$ 47.78	\$ 50.05	\$ 52.33	\$ 54.60	\$ 56.88	\$ 59.15	\$ 61.43	\$ 63.70	\$ 65.98	\$ 68.25
1 1/4	\$ 25.50	\$ 51.00	\$ 53.55	\$ 56.10	\$ 58.65	\$ 61.20	\$ 63.75	\$ 66.30	\$ 68.85	\$ 71.40	\$ 73.95	\$ 76.50
1 1/2	\$ 36.75	\$ 73.50	\$ 77.18	\$ 80.85	\$ 84.53	\$ 88.20	\$ 91.88	\$ 95.55	\$ 99.23	\$ 102.90	\$ 106.58	\$ 110.25
2	\$ 65.50	\$ 131.00	\$ 137.55	\$ 144.10	\$ 150.65	\$ 157.20	\$ 163.75	\$ 170.30	\$ 176.85	\$ 183.40	\$ 189.95	\$ 196.50
3	\$ 147.25	\$ 294.50	\$ 309.23	\$ 323.95	\$ 338.68	\$ 353.40	\$ 368.13	\$ 382.85	\$ 397.58	\$ 412.30	\$ 427.03	\$ 441.75
4	\$ 231.50	\$ 463.00	\$ 486.15	\$ 509.30	\$ 532.45	\$ 555.60	\$ 578.75	\$ 601.90	\$ 625.05	\$ 648.20	\$ 671.35	\$ 694.50
6	\$ 588.00	\$ 1,176.00	\$ 1,234.80	\$ 1,293.60	\$ 1,352.40	\$ 1,411.20	\$ 1,470.00	\$ 1,528.80	\$ 1,587.60	\$ 1,646.40	\$ 1,705.20	\$ 1,764.00
Rate Per 1000 Gallons	\$ 1.60	\$ 3.20	\$ 3.36	\$ 3.52	\$ 3.68	\$ 3.84	\$ 4.00	\$ 4.16	\$ 4.32	\$ 4.48	\$ 4.64	\$ 4.80
Revenue	\$ 31,616.00	\$ 63,232.00	\$ 66,393.60	\$ 69,555.20	\$ 72,716.80	\$ 75,878.40	\$ 79,040.00	\$ 82,201.60	\$ 85,363.20	\$ 88,524.80	\$ 91,686.40	\$ 94,848.00
Difference	\$ 3,161.60	\$ 6,323.20	\$ 9,484.80	\$ 12,646.40	\$ 15,808.00	\$ 18,969.60	\$ 22,131.20	\$ 25,292.80	\$ 28,454.40	\$ 31,616.00		

RESOLUTION NO. 2016-27

A RESOLUTION AMENDING SEWER SERVICE AND USE RATES.

BE IT RESOLVED that the customer service charge shall be a minimum monthly amount based upon the customer's water meter size and the commodity use rate shall be based upon the amount of water metered each month in thousands of gallons or parts thereof; and

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the following Sewer Service and Use Rates are established for all customers pursuant to the Wayne Municipal Code Section 82-156 (residential and commercial rates) and Section 82-160 (special use water rate):

1. Net Monthly Customer Service Charge

<u>Meter Size</u>	<u>Inside City</u>	<u>Current Outside (Rural)</u>
3/4" or less	\$ 8.00	\$16.00
1	11.75	23.50
1 1/4	16.50	33.00
1 1/2	22.25	44.50
2	37.00	74.00
3	80.00	160.00
4	138.00	276.00
6	307.00	614.00

2. Net Monthly Commodity, Use Rate per Thousand Gallons

- (a) Inside City - \$ 6.35
- (b) Outside City - \$12.70

BE IT FURTHER RESOLVED that all residential rates shall be based on an average of the water usage during the months of December, January, and February; and

BE IT FURTHER RESOLVED that the sewage contribution of a residential user, who has not established an average for the months of December, January and February, shall be charged, based on proven averages, in the following manner:

Single occupancy - 2,000 gal. per month
Double or more occupancy - 5,000 gal. per month

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after its passage, approval, and posting as required by law, and the rates provided herein shall be applicable to all services used after meters are read for billing purposes in April, 2016.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA,

By: _____
Council President

ATTEST:

City Clerk

RESOLUTION NO. 2016-28

A RESOLUTION TO ESTABLISH RESIDENTIAL, COMMERCIAL AND SPECIAL USE WATER SERVICES AND USE RATES.

BE IT RESOLVED that the customer service charge shall be a minimum monthly amount based upon the customer's water meter size and the commodity, use rate shall be based upon the amount of water metered each month in thousands of gallons or parts thereof; and

BE IT FURTHER RESOLVED that rural customers shall be charged a customer service charge and commodity rate double the amount of customers in the City; and

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the following Water Service and Use Rates are established for all customers pursuant to the Wayne Municipal Code Section 82-156 (residential and commercial rates) and Section 82-160 (special use water rate):

- | | | | |
|----|-------------------------------------|--------------------|------------------------|
| 1. | Net Monthly Customer Service Charge | | Current |
| | <u>Meter Size</u> | <u>Inside City</u> | <u>Outside (Rural)</u> |
| | 3/4" or less | \$ 16.00 | \$ 32.00 |
| | 1 | 22.75 | 45.50 |
| | 1 1/4 | 25.50 | 51.00 |
| | 1 1/2 | 36.75 | 73.50 |
| | 2 | 65.50 | 131.00 |
| | 3 | 147.25 | 294.50 |
| | 4 | 231.50 | 463.00 |
| | 6 | 588.00 | 1,176.00 |
2. Net Monthly Commodity, Use Rate per Thousand Gallons
- | | | |
|-----|-----------------|-------------------|
| (a) | Inside City | \$ 1.60 |
| (b) | Outside (Rural) | \$3.20 |
3. Withdrawal of Special Use Water from Hydrants
- There shall be a combined charge of the minimum monthly customer service charge based upon the size of the water meter for connection and disconnection of the meter to allow withdrawal of special use water from a hydrant additional to the water metered and consumed.

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after its passage, approval, and posting as required by law, and the rates provided herein shall be applicable with the billing statement received on or about May 1, 2016 (usage from mid-March through mid-April).

PASSED AND APPROVED this 19th day of April, 2016.

RESOLUTION NO. 2016-29

WHEREAS, the City of Wayne desires to amend Resolution No. 2016-13, a standard wage and salary schedule which was effective January 4, 2016;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the City of Wayne Wage & Salary Schedule shall be as follows:

CITY OF WAYNE
NON-EXEMPT WAGE AND EXEMPT SALARY SCHEDULES
Effective April 19, 2016

NON-EXEMPT WAGE SCHEDULE

<u>JOB CLASSIFICATION</u>	<u>HOURLY RANGE</u>	
Part-Time Employees (Lifeguards, Senior Center Activities Aid)	9.00	11.02
Recreation – Leisure Services Assistant I	9.00	11.66
Senior Center Operations Assistant	9.00	11.66
Custodian	9.68	12.88
Handi-Van Driver	10.69	14.23
Assistant Librarian I	11.22	15.30
Assistant Pool Manager	12.00	-
Heavy Equipment Operator I	12.98	17.28
Pool Manager	13.50	15.00
Heavy Equipment Operator II	13.63	18.58
Administrative Assistant	13.63	18.58
Librarian I	13.63	18.58
Water/Sewer Operator I	14.34	19.08
Light Plant Operator II	14.34	19.08
Account Clerk II	14.34	19.08
Accountant/Assistant Treasurer	14.34	19.08
Dispatchers	14.43	19.26

Mechanic	15.06	-	20.53
Dispatch Supervisor	15.39	-	20.54
Water/Wastewater Operator II	15.76	-	21.18
Assistant Street Foreman	15.76	-	21.18
Class A Licensed Electrician	15.76	-	21.18
Apprentice Lineman	15.76	-	21.18
Power Plant Foreman	17.03	-	22.67
Street Foreman	17.81	-	23.70
Patrolman	17.81	-	24.72
Water/Wastewater Operator III	18.19	-	24.20
Chief of Electric Production	19.11	-	27.09
Technology Support Specialist	20.42	-	27.55
Building Inspector/Planner/Street Superintendent	20.61	-	28.11
Lineman II	20.61	-	28.11
Water/Wastewater Foreman	21.01	-	28.11
Police Sergeant	21.43	-	28.16
Senior Lineman	22.25	-	29.61
Water Supervisor	22.25	-	31.11
Electric Line Supervisor	26.41	-	35.37

EXEMPT SALARY SCHEDULE

JOB CLASSIFICATION

Recreation Services Director	15.69	-	25.50
Community Activity Center Director	15.69	-	25.50
Sr. Citizens Center Coordinator	13.77	-	20.94
Library Director	21.03	-	28.32
Ex-Officio Treasurer for Airport	500.00		

Public Buildings Manager	300.00		
Third Party Administrator MRP	250.00		
City Clerk	24.74	-	34.76
Finance Director	25.90	-	35.38
Electric Superintendent – Production	26.41	-	34.98
Water Supervisor	22.25	-	31.11
Police Chief	29.45	-	38.93
Electric Superintendent - Distribution	19.87	-	36.98
City Administrator			50.33

BE IT FURTHER RESOLVED that upon satisfactory evaluation, the progression through the exempt salary schedule and the labor grade steps shall be at least twelve (12) months, unless otherwise deemed warranted and appropriate by the City Administrator.

BE IT FURTHER RESOLVED that employees receiving wage rates less than rates scheduled herein above shall have their wage rates adjusted only upon satisfactory evaluation.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

RESOLUTION NO. 2016-30

**A RESOLUTION ACCEPTING WORK ON THE SOUTHVIEW ADDITION
SANITARY SEWER EXTENSION DISTRICT NO. 2015-01 AND SOUTHVIEW
ADDITION WATER EXTENSION DISTRICT NO. 2015-01 PROJECTS.**

WHEREAS, on the 7th day of April, 2015, the City of Wayne approved Resolution No. 2015-41 awarding the contract on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and Southview Addition Water Extension District No. 2015-01 Projects to Robert Woehler & Sons Construction of Wayne, Nebraska; and

WHEREAS, the contract has been completed according to the terms and specifications of the plans and specifications and according to the report of the project engineer, Advanced Consulting Engineering Services.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the recommendation of acceptance by the project engineer, Advanced Consulting Engineering Services, for the work on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and Southview Addition Water Extension District No. 2015-01 Projects be and the same is hereby accepted.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

RESOLUTION NO. 2016-31

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA, AS FOLLOWS:

Section 1. That the Mayor and City Council will meet as a Board of Equalization at 5:30 p.m. on the 17th day of May, 2016, in the Council Chambers at the City Hall in Wayne, Nebraska, for the purpose of hearing objections to and for equalizing assessments proposed to be levied in Sanitary Sewer Extension District No. 2015-01, and in Water Extension District No. 2015-01 (Southview Addition).

Section 2. That the notice of said meeting and hearing in the form submitted to this meeting and attached hereto be published in the Wayne Herald on the following dates:

April 28, 2016

May 5, 2016

Section 3. That the City Clerk be and hereby is instructed to mail a copy of said Notice to all known resident and non-resident owners of property in said Sanitary Sewer Extension District No. 2015-01 and in Water Extension District No. 2015-01 (Southview Addition), and to any other party appearing to have a direct interest in such action or proceedings; and

Section 4. That at said time and place, the Mayor and City Council of said City will sit as a Board of Equalization and will grant a hearing to all persons interested and the Mayor and City Council will pass a resolution making said special assessments as provided by law.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Council President

ATTEST:

City Clerk

[SEAL]

**Limits of District
for Water & Sewer Extensions to Service
Southview Subdivision, Wayne, Nebraska**



SCALE: 1" = 100'



TAX Lot 40 Owner: Steven E. Mosey \$	TAX Lot 58 Owner: Pauline & Gordon T. O'Reilly \$										Owner: Wayne County Fair & Agricultural Association of the County of Wayne & State of Nebraska \$
99.20'	1,059.04'										68.85'
Grainland Road											
101.59'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	98.00'
Lot 12	Lot 11	Lot 10	Lot 9	Lot 8	Lot 7	Lot 6	Lot 5	Lot 4	Lot 3	Lot 2	Lot 1
Owner: Progressive Property Inspections, L.L.C.	Owner: Progressive Property Inspections, L.L.C.	Owner: Progressive Property Inspections, L.L.C.	Owner: Progressive Property Inspections, L.L.C.	Owner: Progressive Property Inspections, L.L.C.	Owner: Progressive Property Inspections, L.L.C.	Owner: Marilyn Sharer & Elizabeth Sharer	Owner: Progressive Property Inspections, L.L.C.				
Southview						Subdivision					
575 Ave.											

**ADVANCED CONSULTING
ENGINEERING SERVICES**
 133 W. Washington St. • P.O. Box 218
 West Point, NE 68788
 Phone: (402) 372-4923

PROJECT: Grainland Road Water & Sanitary Sewer Extension
 DIVISION: APPLICATION # 2
 DATE: December 3, 2015
 CONTRACTOR: Woehler & Sons Construction, Inc.
 WORK THRU: December 3, 2015
 PROJECT #: 617-016

A ITEM #	B DESCRIPTION	C ESTIMATED QUANTITY	D UNITS	E BID PRICE	WORK COMPLETED				TOTAL COST WORK COMPLETED	percent assessable	water assessment	sewer assessment	General Obligation Cost
					F AMOUNT PREVIOUSLY APPROVED	G AMOUNT THIS PERIOD	H = F + G TOTAL WORK COMPLETED	G = H x E STORED MATERIALS					
1.	8" PVC DR 18 WATER MAIN	1273	L.F.	\$25.00	1273		1273	\$31,825.00	100%	\$30,425.00	\$0.00	\$1,400.00	
2.	6" PVC DR 18 WATER MAIN	12	L.F.	\$24.00	12		12	\$288.00	100%	\$288.00	\$0.00		
3.	8" GATE VALVE	4	EACH	\$2,000.00	4		4	\$8,000.00	100%	\$8,000.00	\$0.00		
4.	6" GATE VALVE	2	EACH	\$1,800.00	2		2	\$3,600.00	100%	\$3,600.00	\$0.00		
5.	8"x6" TEE	2	EACH	\$750.00	2		2	\$1,500.00	100%	\$1,500.00	\$0.00		
6.	8" PLUG	1	EACH	\$400.00	1		1	\$400.00	100%	\$400.00	\$0.00		
7.	6" FIRE HYDRANT	2	EACH	\$3,500.00	2		2	\$7,000.00	100%	\$7,000.00	\$0.00		
8.	CONNECT TO EXISTING WATER MAIN	1	EACH	\$2,500.00	1		1	\$2,500.00	100%	\$2,500.00	\$0.00		
9.	8"x1" SERVICE SADDLE	12	EACH	\$250.00	0	12	12	\$3,000.00	100%	\$3,000.00	\$0.00		
10.	1" CORPORATION STOP	12	EACH	\$250.00	0	12	12	\$3,000.00	100%	\$3,000.00	\$0.00		
11.	1" CURB STOP	12	EACH	\$500.00	0	12	12	\$6,000.00	100%	\$6,000.00	\$0.00		
12.	1" POLYETHYLENE SERVICE LINE	755	L.F.	\$12.00	0	842	842	\$10,104.00	100%	\$10,104.00	\$0.00		
13.	BORE WATER SERVICE LINE	363	L.F.	\$25.00	0	363	363	\$9,075.00	100%	\$9,075.00	\$0.00	\$0.00	
14.	8" PLUG	2	EACH	\$250.00	0	2	2	\$500.00	100%	\$0.00	\$500.00		
15.	8" PVC SANITARY SEWER MAIN	1361	L.F.	\$22.00	182	1179	1361	\$29,942.00	100%	\$0.00	\$28,226.00	\$1,716.00 78 feet	
16.	CONCRETE MANHOLE	81	V.F.	\$350.00	26	55	81	\$28,350.00	100%	\$0.00	\$23,800.00	\$4,550.00 13.1 VF	
17.	8"x4" SERVICE WYE	13	EACH	\$250.00	1	12	13	\$3,250.00	100%	\$0.00	\$3,250.00	\$0.00	
18.	4" PVC SANITARY SEWER SERVICE	96	L.F.	\$20.00	26	197	223	\$4,460.00	100%	\$0.00	\$4,460.00	\$0.00	
19.	CONNECT TO EXISTING MANHOLE	1	EACH	\$1,000.00	1		1	\$1,000.00	0%	\$0.00	\$1,000.00	\$0.00	
20.	4" PVC PLUG	13	EACH	\$250.00	1	12	13	\$3,250.00	100%	\$0.00	\$3,250.00	\$0.00	
21.	REMOVE PAVING	698	SQ. YDS.	\$5.00		17.66	715.66	\$3,578.30		\$1,523.30	\$45.00	\$2,010.00 402 SY OF REMOVAL	
22.	CONSTRUCT 7" PC CONCRETE PAVING	220	SQ. YDS.	\$65.00	0	243.56	243.56	\$15,831.40		\$0.00	\$0.00	\$15,831.40 ALL STREET PAVING	
23.	CONSTRUCT 6" PC CONCRETE DRIVE	207	SQ. YDS.	\$60.00	172	26.66	198.66	\$11,919.60		\$6,639.60	\$2,100.00	\$3,180.00 88 SY OF DRIVE	
24.	CONSTRUCT 5" PC CONCRETE SIDEWALK	271	SQ. YDS.	\$50.00	209	64.44	273.44	\$13,672.00		\$10,122.00	\$2,650.00	\$900.00 71 SY OF SIDEWALK	
1.	STORED MATERIALS		LUMP		1			\$0.00	0%	\$0.00	\$0.00	\$0.00	
2.	CONSTRUCT PAVING DEPTH FROM 7" TO 8"		LUMP		1			\$1,100.00	0%	\$0.00	\$0.00	\$1,100.00	
3.	LIQUIDATED DAMAGES		LUMP		1			-\$1,875.00	by percentage of contract	-\$706.30	-\$645.41	-\$523.29	
TOTAL CHANGE ORDERS													
TOTAL WORK COMPLETED									\$201,270.30	\$102,470.60	\$68,635.59	\$30,164.11	
GENERAL OBLIGATION COST													

ORIGINAL CONTRACT PRICE	\$197,220.00	LEGAL, INTEREST	ENGINEERING	TOTAL
NET CHANGE BY CHANGE ORDER	(\$775.00)	\$10,247.06	\$7,636.79	\$120,354.45
TOTAL CONTRACT PRICE	\$196,445.00	\$4,435.00	\$30.53	\$5,209.03
TOTAL COMPLETED AND STORED TO DATE	\$201,270.30	\$106,905.60	\$7,967.32	\$125,563.48
RETAINAGE ON WORK COMPLETED	\$0.00			
AMOUNT ELIGIBLE FOR PAYMENT TO DATE	\$201,270.30			
LESS PREVIOUS PAYMENTS	\$99,912.12			
AMOUNT DUE THIS PAY APPLICATION	\$101,358.18			
BALANCE TO FINISH (INCLUDING RETAINAGE)	\$0.00			
TOTAL PROJECT		\$201,270.30	\$15,000.00	\$236,397.33

WATER EXTENSION	
TOTAL CONSTRUCTION COSTS	\$106,905.60
ENGINEERING	\$7,967.32
LEGAL FEES, ADVERTISING, INTERIM INTEREST, ETC.	\$10,690.56
TOTAL PROJECT COST	\$125,563.48
GENERAL OBLIGATION COSTS	\$5,209.03
ASSESSED COSTS	\$120,354.45
TOTAL FRONT FOOTAGE	2,454.18
COST PER FRONT FOOT	\$49.0406

DISTRICT #1 - WATER					
DESCRIPTION	OWNER	OWNER'S ADDRESS	FRONT FOOTAGE (FT)	ASSESSMENT PER FRONT FOOTAGE	TOTAL ASSESSMENT
Grainland Road					
LOT 1	Progressive Property Inspections, LLC		98	\$49.0406	\$4,805.98
LOT 2	Progressive Property Inspections, LLC		150	\$49.0406	\$7,356.09
LOT 3	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 4	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 5	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 6	Matthew Sharer & Elizabeth Sharer		97.5	\$49.0406	\$4,781.46
LOT 7	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 8	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 9	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 10	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 11	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46
LOT 12	Progressive Property Inspections, LLC		101.59	\$49.0406	\$4,982.03
LOT 40	Steven F Mrsny		99.2	\$49.0406	\$4,864.83
LOT 58	Patrick J O'Reilly & Gretchen T O'Reilly		1059.04	\$49.0406	\$51,935.95
	County of Wayne & State of NE		68.85	\$49.0406	\$3,376.45
TOTALS			2454.18		\$120,354.45
TOTAL ASSESSABLE COSTS - WATER					

SANITARY SEWER EXTENSION	
TOTAL CONSTRUCTION COSTS	\$94,363.70
ENGINEERING	\$7,032.68
LEGAL FEES, ADVERTISING, INTERIM INTEREST, ETC.	\$9,436.47
TOTAL PROJECT COST	\$110,832.85
GENERAL OBLIGATION COSTS	\$30,218.52
ASSESSED COSTS	\$80,614.33
TOTAL FRONT FOOTAGE	2,454.18
COST PER FRONT FOOT	\$32.8478

DISTRICT # - SEWER						
DESCRIPTION	OWNER	OWNER'S ADDRESS	FRONT FOOTAGE (FT)	ASSESSABLE AMOUNT	TOTAL ASSESSMENT	
Grainland Road						
	LOT 1	Progressive Property Inspections, LLC		98	\$32.8478	\$3,219.08
	LOT 2	Progressive Property Inspections, LLC		150	\$32.8478	\$4,927.16
	LOT 3	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 4	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 5	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 6	Matthew Sharer & Elizabeth Sharer		97.5	\$32.8478	\$3,202.66
	LOT 7	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 8	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 9	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 10	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 11	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 12	Progressive Property Inspections, LLC		101.59	\$32.8478	\$3,337.00
	LOT 40	Steven F Mrsny		99.2	\$32.8478	\$3,258.50
	LOT 58	Patrick J O'Reilly & Gretchen T O'Reilly		1059.04	\$32.8478	\$34,787.10
		County of Wayne & State of NE		68.85	\$32.8478	\$2,261.57
TOTAL				2454.18		\$80,614.33
TOTAL ASSESSABLE COSTS - SEWER						



ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Contractor's Application for Payment No.

To (Owner): City of Wayne	Application Period: 4/4/2016	Application Date: 4/4/2016
Project: Logan Valley Drive Water & Sewer Extension	From (Contractor): Penro Construction Co., Inc.	Via (Engineer): Advanced Consulting Engineering Services
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.: 617-018

**Application For Payment
Change Order Summary**

Approved Change Orders	Number	Additions	Deductions	Description	Amount
				1. ORIGINAL CONTRACT PRICE.....	\$ 105,097.70
				2. Net change by Change Orders.....	\$
				3. Current Contract Price (Line 1 ± 2).....	\$ 105,097.70
				4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate).....	\$ 100,162.70
				5. RETAINAGE:	
				a. 5% X \$100,162.70 Work Completed.....	\$ 5,008.14
				b. X _____ Stored Material.....	\$
				c. Total Retainage (Line 5a + Line 5b).....	\$ 5,008.14
				6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c).....	\$ 95,154.57
				7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$
				8. AMOUNT DUE THIS APPLICATION.....	\$ 95,154.57
				9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above).....	\$ 9,943.13
TOTALS					
NET CHANGE BY CHANGE ORDERS					

Contractor's Certification

The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: *[Signature]* Date: 4-6-16

Payment of: \$ 95,154.57
(Line 8 or other - attach explanation of the other amount)

is recommended by: *[Signature]* 4-6-16
(Engineer) (Date)

Payment of: \$ 95,154.57
(Line 8 or other - attach explanation of the other amount)

is approved by: _____
(Owner) (Date)

PROJECT: Logan Valley Drive Water & Sewer Extension - Wayne, Nebraska #617-018

CONTRACTOR: Penro Construction

PAY APPLICATION #1

Date: 4/4/16

LOGAN VALLEY DRIVE WATER & SEWER EXTENSION						WORK COMPLETED (CONSTRUCTED QUANTITY)			
ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNITS	UNIT PRICE	SCHEDULED VALUE	PREVIOUS	THIS PERIOD	TOTAL COMPLETED	TOTAL PRICE
1	8" PVC DR18 WATER MAIN	1173	L.F.	\$20.15	\$23,635.95		1173	1173	\$23,635.95
2	LIVE TAP EXISTING 8" WATER MAIN	1	EACH	\$1,550.00	\$1,550.00		1	1	\$1,550.00
3	8" TEE	1	EACH	\$825.00	\$825.00		1	1	\$825.00
4	8" GATE VALVE W/ RDWY. BOX	2	EACH	\$1,140.00	\$2,280.00		2	2	\$2,280.00
5	8" PLUG	1	EACH	\$165.00	\$165.00		1	1	\$165.00
6	8"x6" TEE	3	EACH	\$320.00	\$960.00		3	3	\$960.00
7	6" GATE VALVE W/ RDWY. BOX	3	EACH	\$815.00	\$2,445.00		3	3	\$2,445.00
8	6" FIRE HYDRANT	3	EACH	\$3,045.00	\$9,135.00		3	3	\$9,135.00
9	8"x1" SERVICE SADDLE	10	EACH	\$105.00	\$1,050.00		10	10	\$1,050.00
10	1" CORPORATION STOP	10	EACH	\$100.00	\$1,000.00		10	10	\$1,000.00
11	1" CURB STOP W/ RDWY. BOX	10	EACH	\$230.00	\$2,300.00		10	10	\$2,300.00
12	1" POLYETHYLENE SERVICE LINE	261	L.F.	\$14.00	\$3,654.00		261	261	\$3,654.00
13	8" PVC SDR26 SANITARY SEWER PIPE	1200	L.F.	\$26.25	\$31,500.00		1200	1200	\$31,500.00
14	CONSTRUCT CONCRETE MANHOLE	32.74	V.F.	\$330.00	\$10,804.20		32.74	32.74	\$10,804.20
15	CONNECT TO EXISTING MANHOLE	1	EACH	\$1,180.00	\$1,180.00		1	1	\$1,180.00
16	8"x4" SERVICE WYE	10	EACH	\$110.00	\$1,100.00		10	10	\$1,100.00
17	4" SCHEDULE 40 SERVICE LINE	297	L.F.	\$22.15	\$6,578.55		297	297	\$6,578.55
18	REPLACE GRAVEL SURFACING	25	TONS	\$28.00	\$700.00		0	0	\$0.00
19	SEEDING	3485	SQ.YDS.	\$1.00	\$3,485.00		0	0	\$0.00
20	EROSION CONTROL	1	LUMP SUM	\$750.00	\$750.00		0	0	\$0.00
TOTAL BASE BID					\$105,097.70				\$100,162.70

TOTAL CONTRACT PRICE	\$105,097.70
NET CHANGE BY CHANGE ORDERS	
CURRENT CONTRACT PRICE	\$105,097.70
TOTAL COMPLETED AND STORED TO DATE	\$100,162.70
RETAINAGE (5%)	\$5,008.14
AMOUNT ELGIBLE FOR PAYMENT	\$95,154.57
LESS PREVIOUS AMOUNT PAID	
AMOUNT DUE THIS APPLICATION	\$95,154.57
BALANCE TO FINISH (INCLUDING RETAINAGE)	\$9,943.13

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ORDINANCE NO. 2016-5

AN ORDINANCE AMENDING CHAPTER 10 AMUSEMENTS AND ENTERTAINMENTS, ARTICLE II CITY LOTTERY, BY ADDING SECTION 10-33 LOTTERY; PARTICIPATION; RESTRICTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 10, Article II, Section 10-33 of the Wayne Municipal Code is hereby amended to read as follows:

10-33 LOTTERY; PARTICIPATION; RESTRICTIONS.

- A. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the municipality.
- B. No owner or officer of a lottery operator with whom the municipality contracts to conduct its lottery shall play the lottery conducted by the municipality.
- C. No employee or agent of the municipality, lottery operator, or authorized sales outlet location shall play the lottery of the municipality for which he or she performs work during such time as he or she is actually working at such lottery or while on duty. ~~No member of the Governing Body, municipal official, or immediate family of such member or official shall play in the lottery conducted by the municipality.~~
- D. Nothing herein shall prohibit the playing of any lottery conducted by the municipality by any member of the City Council, a city official, or the immediate family of any such member or official, except as otherwise expressly prohibited by this Resolution.**
- E. Nothing shall prohibit an owner or officer of an authorized sales outlet location for the municipality from playing the lottery conducted by the municipality as long as such person is 19 years of age or older.
- F. No person, or employee or agent of any person or the municipality shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the municipality.
- G. For purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

~~**IMMEDIATE FAMILY OF A MEMBER OF THE GOVERNING BODY OR A MUNICIPAL OFFICIAL.**~~

- ~~a. A person who is related to the member or official by blood, marriage, or adoption and resides in the same household; or~~
- ~~b. A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.~~

Statutory reference:

~~State provisions on participation restrictions, Neb. Rev. Stat. 9-646~~

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 19th day of April, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

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TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 10.11 Official time
- 10.12 Reasonable time
- 10.13 Ordinances repealed
- 10.14 Ordinances unaffected
- 10.15 Repeal or modification of ordinance; amendments
- 10.16 Section histories; statutory references
- 10.17 Supplementation of code
- 10.18 Altering code

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances shall be designated as the “City of Wayne Code of Ordinances” and may be so cited.
(2002 Code, § 1-1)

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

CITY, MUNICIPAL CORPORATION or MUNICIPALITY. The City of Wayne, Nebraska.

CITY COUNCIL or GOVERNING BODY. The legislative body of the City of Wayne, Nebraska.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Wayne County, Nebraska.

MAY. The act referred to is permissive.

MONTH. A calendar month.

NEB. RS. Nebraska Revised Statutes.

OATH. Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and, in such cases, the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

OFFICER, OFFICE, OFFICIALS, EMPLOYEE, COMMISSION or DEPARTMENT. An ~~officer,~~ office, employee, commission or department of the city unless the context clearly requires otherwise.

PERSON. Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies and associations. (Neb. RS 49-801(16))

PRECEDING or **FOLLOWING.** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION.** Includes a mark when the person cannot write.

STATE. The State of Nebraska.

STREET. Streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public streets and ways in the city and shall embrace all parts constituting the designated right-of-way, unless otherwise ~~stated~~ **defined in a subsequent chapter.**

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS.**

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed. (2002 Code, § 1-2)

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of the city shall be by the following rules, unless that construction is plainly ~~repugnant~~ **contradictory** to the intent of the Mayor and City Council or of the context of the same ordinance.

~~—(A) AND or OR. Either conjunction shall include the other as if written “and/or”, if the sense requires it.~~

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy ~~as well may do as~~ **may act on behalf of** the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders **and vice versa**; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present **or past** tense shall include the future, if applicable, **and vice versa.**

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever a section refers to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within the city for the transaction of all city business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code. All prior ordinances pertaining to the subjects treated by this code are repealed; except that, nothing shall affect any rights acquired under, actions involving or fines, penalties, forfeitures or liabilities incurred pursuant to those ordinances prior to repeal.

§ 10.14 ORDINANCES UNAFFECTED.

(A) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;
- (3) Any contract or obligation assumed by the city;
- (4) Any ordinance fixing the salary of any city officer or employee;
- (5) Any right or franchise granted by the city;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving and the like any street or public way in the city;
- (7) Any appropriation ordinance;
- (8) Any ordinance which, by its own terms, is effective for a stated or limited term;
- (9) Any ordinance providing for local improvements and assessing taxes for such improvements;
- (10) Any zoning map amendment or zoning ordinance;
- (11) Any ordinance dedicating or accepting any subdivision plat;
- (12) Any ordinance describing or altering the boundaries of the city;
- (13) The administrative ordinances or resolutions of the city not in conflict or inconsistent

with the provisions of this code;

- (14) Any ordinance levying or imposing taxes not included in this code;
- (15) Any ordinance establishing or prescribing street grades in the city; and
- (16) Any ordinance setting fees, rates or charges and not included in this code.

(B) No such ordinance shall be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this code. (2002 Code, § 1-10)

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE; AMENDMENTS.

(A) (1) Whenever any ordinance or part of an ordinance is repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it to give effect thereto.

(2) No suit, proceedings, right, liability, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall, in any way, be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force, unless it is otherwise expressly provided.

(3) When any ordinance repealing a former ordinance, clause or provision is itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

(B) (1) All ordinances passed subsequent to this ~~code~~ **code** of ordinances which amend, repeal or, in any way, affect this code of ordinances may be numbered in accordance with the numbering system of this code and printed for inclusion in the code. When subsequent ordinances repeal any chapter, section or division or any portion, such repealed portions may be excluded from the code by their omission from reprinted pages.

(2) Amendments to any of the provisions of this code should be made by amending such provisions by specific reference to the section of this code in substantially the following language: "That section _____ of the Code of Ordinances, City of Wayne, Nebraska, is amended to read as follows: (set out new provisions in full)."

(3) When the Council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the Council desires to incorporate into the code, a section in substantially the following language shall be made a part of the ordinance: "Section . It is the intention of the Council, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Wayne, Nebraska, and the sections of this ordinance may be renumbered to accomplish such intention."

(4) All sections, subchapters, chapters or other provisions of this code desired to be repealed should be specifically repealed by section or chapter number, as the case may be.
(2002 Code, § 1-6)

Statutory reference:

Requirements for amendments and revisions, see Neb. RS ~~17-614~~ 16-404

§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.

(A) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. RS 18-132)

(B) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see Neb. RS 84-712 et seq.

§ 10.17 SUPPLEMENTATION OF CODE.

(A) By contract or by city personnel, supplements to this code shall be prepared from time to time. A supplement to the code shall include all substantive, permanent and general parts of ordinances passed by the Council during the period covered by the supplement and all changes made by the supplement in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(B) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by their omission from reprinted pages.

(C) When preparing a supplement to this code, the codifier (meaning the person authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other divisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other division numbers;

(4) Change the words “this ordinance” or words of the same meaning to “this chapter”, “this subchapter”, “this division” and the like, as the case may be, or to “sections _____ to _____ “ (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other non-substantive changes necessary to preserve the original meanings of ordinance sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code. (2002 Code, § 1-7)

~~§ 10.18 ALTERING CODE.~~

~~It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part or portion of this code, or to insert or delete pages or portions of pages, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented.~~

~~(2002 Code, § 1-8) Penalty, see § 10.99~~

~~Statutory reference:~~

~~Abuse of records prohibited, see Neb. RS 28-911~~

§ 10.99 GENERAL PENALTY.

Whenever in this code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided, such violation of any such provision of this code or any ordinance shall be punishable by a fine not exceeding \$500, except for Ch. 74 of this code, which, for a first offense, shall be punishable by a \$100 fine, which may be paid by waiver. If such person has one prior conviction within one year of the second offense, conviction of the second offense shall be punishable by a \$100 fine, and the operator's city ATV/utility vehicle license shall be impounded for one year from the date of conviction. Penalties for subsequent convictions are not waivable. **PRIOR CONVICTION WITHIN ONE YEAR** shall be measured by the time that passes from the date of conviction of the prior offense to the date of offense for the subsequent offense.

(2002 Code, § 1-9) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013)

Statutory reference:

Authority to abate nuisances, see Neb. RS ~~18-1720 and 18-1722~~ – **16-225**

Authority to impose fines, see Neb. RS ~~17-505~~

TITLE III: ADMINISTRATION

Chapter

30. GENERAL PROVISIONS

31. CITY COUNCIL

32. OFFICIALS AND EMPLOYEES

33. CIVIL SERVICE

34. CITY ORGANIZATIONS

35. ELECTIONS

~~**36. INITIATIVES AND REFERENDUMS**~~

~~**37. FINANCE**~~

38. FIRE DEPARTMENT

CHAPTER 30: GENERAL PROVISIONS

Section

- 30.01 Corporate existence
- 30.02 Service of process
- 30.03 Powers
- 30.04 Codification of ordinances
- 30.05 Emergency Management Act
- 30.06 Eminent domain
- 30.07 Official corporate seal

§ 30.01 CORPORATE EXISTENCE.

The city is hereby found and declared to be a city of more than 5,000 persons. The city shall be governed by the laws of the state regulating cities of the first class.

(2002 Code, § 2-1)

Statutory reference:

Cities of the first class defined, see Neb. RS 16-101

§ 30.02 SERVICE OF PROCESS.

All process affecting the city may be served by personal, residence or certified mail service upon the ~~chief executive official~~ **Mayor** or the City Clerk.

(2002 Code, § 2-2)

Statutory reference:

Service of process, see Neb. RS 16-115

§ 30.03 POWERS.

(A) The city is a body corporate and politic.

(B) It shall have ~~the power to~~ **all the general powers provided to it pursuant to Neb. RS 16-201.**

~~(1) Sue and be sued;~~

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~~(2) Purchase, lease and lease with option to buy;~~

~~(3) Acquire property by gift or devise;~~

~~(4) Hold real and personal property within or without the limits of the city, and real estate sold to satisfy unpaid tax obligations for the use of the city in such manner and upon such terms and conditions as may be deemed in the best interests of the city;~~

~~(5) Sell, exchange or lease any personal or real property owned by the city, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the city; provided that, real estate owned by the city may be conveyed without consideration to the state or to the State Armory Board for state armory sites, or if acquired for state armory sites, shall be conveyed in the manner strictly as provided in Neb. RS 18-1001 through 18-1006;~~

~~(6) Make all contracts and do all other acts in relation to the concerns of the city as may be necessary in the exercise of its corporate powers; and~~

~~(7) Exercise such other and further powers as may be conferred by law.~~

~~(2002 Code, § 2-3)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 16-201~~

§ 30.04 CODIFICATION OF ORDINANCES.

(A) The city shall have the power to revise the ordinances of the city ~~and publish them in book form. The revision shall be evidenced by a general codification ordinance which shall repeal all other ordinances in conflict and embrace as the governing law of the city all provisions in the revision~~ **in accordance with Neb. RS 16-247.**

~~(B) All ordinances in force at the time of the codification shall continue in force for the purpose of all rights acquired, fines, penalties, forfeitures and liabilities incurred.~~

~~(2002 Code, § 2-4)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 16-247~~

§ 30.05 EMERGENCY MANAGEMENT ACT.

The State Emergency Management Act as it now exists or may hereafter be amended to provide is adopted as part of this code, as if set out in full in this code.

(2002 Code, § 2-5)

Statutory reference:

State Emergency Management Act, see Neb. RS 81-839.36 et seq.

§ 30.06 EMINENT DOMAIN.

The Council may, after negotiations in good faith have failed, bring condemnation actions for the acquisition of property within the city or without the city as provided by law. Such procedure shall be prescribed by state law and damages shall be paid.

(2002 Code, § 2-6)

Statutory reference:

Authority for eminent domain, see Neb. RS 19-709

§ 30.07 OFFICIAL CORPORATE SEAL.

The official corporate seal of the city shall be kept in the office of the City Clerk and shall bear the following inscription: "Seal, City of Wayne, Nebraska, Incorporated February 2, 1884". The City Clerk shall affix an impression of the official seal to all warrants, licenses, permits, ordinances and all other official papers issued by order of the Council and countersigned by the City Clerk.

(2002 Code, § 2-7)

Statutory reference:

Corporate seal, see Neb. RS 16-115

CHAPTER 31: CITY COUNCIL

Section

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- 31.02 Other offices prohibited
- 31.03 Vacancies
- 31.04 Enumerated
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- 31.52 ~~Appropriation of money~~ **Ordinances and Resolutions; Votes Required**
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- 31.54 Publication or posting
- 31.55 Style
- 31.56 Title
- 31.57 Emergency ordinances
- 31.58 Amendments and revisions
- 31.59 Introduction
- 31.60 Resolutions and motions

Statutory reference:

Council and proceedings, see Neb. RS 16-401 et seq.

Ordinances generally, see Neb. RS 16-403, 16-404

Public meetings, see Neb. RS 84-1408 et seq.

GENERAL PROVISIONS**§ 31.01 QUALIFICATIONS.**

All elected officers shall be registered voters of the city.
(2002 Code, § 2-41)

Statutory reference:

Related provisions, see Neb. RS 16-311

§ 31.02 OTHER OFFICES PROHIBITED.

(A) No elected officer of the city shall hold any county office, nor shall he or she be appointed to any other office, created by the Council.

(B) The acceptance of any county office by any such elective city officer shall be a vacation of the city office so held prior to such acceptance.

(2002 Code, § 2-42)

Statutory reference:

Related provisions, see Neb. RS 16-305

§ 31.03 VACANCIES.

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560.

(B) Any vacancy in the office of Mayor shall be filled as otherwise provided by state statute. Any vacancy on the Council resulting from causes other than expiration of the term shall be filled by appointment by the Mayor with the consent of the Council to hold office for the remainder of the term.

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

(D) (1) The Mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term.

(2) The Council shall vote upon such nominee and, if a majority votes in favor of such nominee, the vacancy shall be declared filled, if a nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled.

(3) The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee.

(4) Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

(E) The Council may, in lieu of filling a vacancy in a city elected office as provided in divisions (B) through (D) above, call a special city election to fill such vacancy.

(F) If vacancies exist in the offices of a majority of the members of the Council, the Secretary of State shall conduct a special city election to fill such vacancies.

(G) No official 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 Council during the remainder of his or her term of office.

(2002 Code, § 2-43)

Statutory reference:

Related provisions, see Neb. RS 16-217, 32-560 through 32-572, 32-1308

§ 31.04 ENUMERATED.

The elections of the city shall elect the Mayor and the Council members under and according to the laws of the state.

(2002 Code, § 2-44)

Statutory reference:

Election of officers, qualifications, see Neb. RS 16-302.01

§ 31.05 MAYOR.

(A) The Mayor shall be elected to serve a four-year term of office.

(B) The Mayor shall preside at all meetings of the Council and shall have the right to vote on any matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the Council. He or she shall have the superintending control of all the officers and affairs of the city and shall take care that the state and city law are complied with. He or she may administer oaths and shall sign the commissions and appointments of all the officers appointed in the city.

(C) The Mayor shall have the power to approve or veto any ordinance passed by the Council and to approve or veto any order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim; provided that any ordinance, order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of all the members elected to the Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim, and returns it with his or her objection in writing at the next regular meeting of the Council, it shall become law without his or her signature. The Mayor may veto any item of any appropriation bill and approve the remainder. The item so vetoed may be passed by the Council over his or her veto as in other cases. The Mayor shall communicate to the Council such information and recommend such measures as in his or her opinion may tend to improve the city, and may have such jurisdiction as may be vested in him or her by ordinance over all places within two miles of the corporate limits of the city for the enforcement of health or quarantine laws and their regulation.

(D) The Mayor shall have the power, after the conviction of any person, to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the laws of the city. If there is a vacancy in the office of Mayor, or if the Mayor is absent or unable to fulfill the duties and obligations of his or her office, the President of the Council shall exercise the powers and duties of the office until the vacancy shall be filled, such disability is removed or, in the case of temporary absence, until the Mayor returns.

(2002 Code, § 2-45)

Statutory reference:

Related provisions, see Neb. RS 16-312 through 16-316

§ 31.06 ACTING PRESIDENT.

The Council shall elect one of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the Council in the absence of the Mayor. In the absence of both the Mayor and the President of the Council, the Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled acting President of the Council. Both the President of the Council and the acting President of the Council, when occupying the position of the

Mayor, shall have the same privileges as the other members of the Council; and all acts of the President of the Council, or acting President of the Council while so acting, shall be as binding upon the Council, and upon the city as if done by the elected Mayor.

(2002 Code, § 2-46)

Statutory reference:

Related provisions, see Neb. RS 16-402

§ 31.07 SELECTION AND DUTIES.

Each member of the Council shall be elected and serve a four-year term. One Council member from each ward shall be elected at each election, so that terms are staggered. The Council shall be the legislative division of the city government and shall perform such duties and have such powers as may be authorized by law. The Council shall maintain the peace, regulate business, protect the public health and safety, assess such taxes and fees as are necessary, and appropriate funds in the exercise of these functions.

(2002 Code, § 2-47)

Statutory reference:

Election of officers, see Neb. RS 16-302.01

§ 31.08 ORGANIZATION.

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

(2002 Code, § 2-48)

Statutory reference:

Related provisions, see Neb. RS 16-302.01

§ 31.09 BONDS OF COUNCIL MEMBERS.

Each Council member, before entering upon the duties of office, shall be required to give bond to the city with a responsible surety company in the sum of \$1,000. This bond shall be conditioned on the faithful discharge of the duties of the Council member. The bond will be further conditioned that if the Council member shall vote for any expenditure or appropriation of money or create any liability in excess of the amount allowed by law, the Council member and the sureties signing the bond shall be liable on the bond. The bond shall be filed with the City Clerk and approved by the Mayor and, upon the approval, the city may pay the premium for such bond. Any liability sought to be incurred, or debt created in excess of the amount limited or authorized by law shall be taken and held by any court of the

state as the joint and several liability of the Council member voting for and the Mayor approving the liability or debt. Any such liability or debt shall not be an obligation upon the city. Voting for or approving of such liability or debt shall be conclusive evidence of malfeasance in office, for which such Council member or Mayor may be removed from office.

(2002 Code, § 2-49)

Statutory reference:

Bonds of Council members, see Neb. RS 16-304

§ 31.10 RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

(A) The Mayor and members of the Council shall hold no other elective or appointive office or employment with the city; except that, if a current member of Council obtains employment with the city, he or she may be authorized to complete his or her current term of service upon a majority vote of all other elected Council members.

(B) For purposes of this section, the term **ELECTIVE OFFICE** means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the legislature; and the term **HIGH ELECTIVE OFFICE** means a member of the legislature, an elective office described in Art. IV, §§ 1 or 20, or Art. VII, §§ 3 or 10, of the State Constitution, or a county, city or school district elective office.

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

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

(E) No person serving as a member of the legislature or in an elective office described in Art. IV, §§ 1 or 20, or Art. VII, §§ 3 or 10, of the State Constitution shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(F) Whenever an incumbent serving as a member of the legislature or in an elective office

described in Art. IV, §§ 1 or 20, or Art. VII, §§ 3 or 10, of the State Constitution assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

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

(H) Notwithstanding divisions (E) through (G) above, any person holding more than one high elective office upon 9-13-1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed.

(2002 Code, § 2-50) (Ord. 2012-41, passed 9-4-2012)

Statutory reference:

Related provisions, see Neb. RS 16-305, 32-109, 32-603, 32-604

§ 31.11 CODE OF DECORUM.

It is the policy of the city that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of conduct for all city officials and employees is adopted. The City Council may adopt, amend and/or rescind this code. If any portion of this code of conduct is found to conflict with city ordinance or state law, the provisions of city ordinance or state law shall be followed.

(A) *Mayor.*

- (1) Presides at all the meetings of the City Council;
- (2) May debate any matter coming before the City Council;
- (3) Votes when his or her vote shall be decisive and the City Council is equally divided on any pending matter;
- (4) Has superintending control of all offices and affairs of the municipality and shall take care that the state and municipal law are complied with;
- (5) Has the power to approve or veto any ordinance, order, bylaw, resolution, award of contract or allowance of a claim passed by the City Council;
- (6) Demonstrates respect, kindness, consideration and courtesy to others;
- (7) Prepares in advance of City Council meetings and becomes familiar with agenda items;
- (8) Will not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain;

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(9) Shall communicate to the City Council such information and recommend such measures as in the Mayor's opinion may tend to improve the municipality;

(10) May call for a special meeting;

(11) Makes judgment calls on proclamations and similar situations;

(12) Recognized as spokesperson for the city. The Mayor may designate another;

(13) Selects substitute for city representation when unable to attend events;

(14) Recommends subcommittees and names for appointment to committees for City Council confirmation;

(15) Leads the City Council into an effective, cohesive working team;

(16) Signs documents on behalf of the city;

(17) Serves as official delegate of the city at events and conferences;

(18) Provides advance notice to City Hall if he or she is unable to attend any called meeting;

(19) Demonstrates honesty and integrity in every action and statement;

(20) Inspires public confidence in city government;

(21) Will treat all people fairly; and

(22) Use best efforts to attend all regular meetings. It is expected that, in a year (December 1 to December 1), the Mayor shall not be absent more than:

(a) Eight regular meetings; or

(b) Five consecutive meetings.

(B) *Council President.*

(1) Chairs City Council meetings in the absence of the Mayor;

(2) May debate any matter coming before the City Council and may move, second, debate and vote from the Chair, subject only to such limitations of debate as are imposed by these rules on all members, and shall not be deprived of any rights and privileges of a Council member by reason of his or her acting as presiding officer;

(3) Performs the duties of the Mayor if the Mayor is absent or disabled; and

(4) Represents the city at ceremonial functions at the request of the Mayor.

(C) *Council members.*

(1) All members of the City Council have equal votes. No Council member has more power than any other Council member, and all should be treated with equal respect. The Council is the policymaker of city government and, therefore, the City Council should feel free to ask for, and receive thorough answers to reasonable questions. It is their responsibility to make good policy by understanding the form of government and the role they play in that form. The Council shall make all decisions in the city's best interest.

(2) Council members should:

(a) Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration and courtesy to others;

(b) Prepare in advance of City Council meetings and be familiar with agenda items;

(c) Not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain, including confidentiality in executive session;

(d) Represent the city at ceremonial functions at the request of the Mayor;

(e) Apply knowledge and expertise to the assigned activity and to the interpersonal relationships that are part of the job in a consistent, confident and competent manner;

(f) Serve as a model of leadership and civility to the employees of the city and the citizens of the community;

(g) Inspire public confidence in city government;

(h) Provide advance notice to City Hall whenever possible if he or she is unable to attend any called meeting;

(i) Use best efforts to attend all regular meetings. It is expected that, in a year (December 1 to December 1), a Council member shall not be absent more than:

1. Eight regular meetings; or
2. Five consecutive meetings.

(j) Demonstrate honesty and integrity in every action and statement.

(D) *Meeting procedures.*

(1) Regular City Council meetings are held on the first and third Tuesdays of every month. The Mayor or four Council members can call for a special meeting, the object of which shall be submitted to the City Council in writing.

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(2) In chairing official meetings of the City Council, the Mayor or Council President shall:

(a) Maintain order, decorum and the fair and equitable treatment of all speakers;

(b) Keep discussion and questions focused on specific agenda items under consideration;

and

(c) Open public hearings at the designated time(s) and inform those in attendance that each person addressing the Council shall step up to the podium, state their names and addresses for the record, and unless further time is granted by the City Council, limit their remarks to three minutes in length.

(E) *Elected officials conduct with city staff.*

(1) Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. Rude or boorish behavior towards staff is not acceptable.

(2) Questions of city staff should be directed only to the City Administrator, City Attorney, City Clerk or department heads. All requests for information concerning staff should be copied to the City Administrator. Requests for follow-up or directions to staff should be made only through the Mayor or City Administrator when appropriate and should be in writing so there is no confusion on the request. When in doubt about what staff contact is appropriate, Council members should contact the Mayor or City Administrator for direction.

(3) Materials supplied to a Council member in response to a request will be made available to all members of the City Council so that all have equal access to information.

(4) Council members should never express concerns about the performance of a city employee in public, to the employee directly, or to the employee's supervisor. Comments about staff performance should only be made to the Mayor or City Administrator through private correspondence or conversation.

(5) Council members should not attempt to influence city staff in their daily work or in the granting of city licenses and permits.

(F) *Elected officials conduct with consultants/engineers and the public.*

(1) Making individual presenters feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident. Every effort should be made to be fair and impartial in listening to testimony that is presented.

(2) It is disconcerting to speakers to have Council members not look at them when they are speaking. It is acceptable to look down at documents or to take notes, but continual visiting, reading or gazing around gives the appearance of disinterest.

(3) All speakers should be allowed the privilege of making an appropriate presentation without interruption. If a speaker becomes flustered or defensive by questions, it is the responsibility of

the Chair to stay calm, focus the speaker and maintain the order and decorum of the meeting.

(4) Questions directed to the public/consultants/engineers should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker.

(G) Elected officials conduct with other agencies, boards and commissions.

(1) If an elected official appears before another governmental agency, legislative hearing or organization to give a statement on an issue, the elected official must clearly state:

(a) If his or her statement reflects his or her personal opinion or if it is the official stance of the city; and

(b) Whether this is the majority or minority opinion of the City Council.

(2) If the elected official is officially representing the city, he or she must support and advocate the official city position on an issue, and not his or her personal viewpoint.

(3) Elected officials may be asked to attend a board or commission meeting as a liaison of the City Council. The elected official should be sensitive to the way his or her participation could be viewed as unfairly affecting the process. Any public comments by an elected official should be clearly made as individual opinion and not as representation of the feeling of the entire body unless directed to do so.

(4) A primary role of boards/commissions is to represent the many points of view in the municipality and to provide advice to the elected officials based on a full spectrum of concerns and perspectives. Elected officials shall be fair and respectful of all citizens serving on boards/commissions. It is inappropriate for a Council member to contact a board or commission member to lobby on behalf of an individual, business or developer.

(H) Elected officials contact with the media.

(1) The best advice for dealing with the media is to never go “off the record”.

(2) The Mayor or his or her designee is the designated representative of the City Council to represent and speak on the official city position. If an individual Council member is contacted by the media, the Council member should be clear about whether his or her comments represent the official city position or his or her personal viewpoint.

(I) Elected officials conduct in unofficial settings.

(1) Council members should make no promises on behalf of the City Council. It is appropriate to give a brief overview of city policy and to refer to city staff for further information. It is inappropriate to overtly or implicitly promise City Council action, or to promise city staff will do something specific (fix a pothole, remove a library book and the like).

(2) It is acceptable for Council members to publicly disagree about an issue, but it is

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unacceptable to make derogatory comments about other Council members, their opinions or actions.

(J) *Requirements of the public when addressing the City Council as a body.*

(1) The presiding officer of the City Council can, but is not required by state law to, provide opportunity during City Council meetings for discussion by interested persons or their authorized representatives on any City Council agenda item prior to final action thereon; provided that, a preference shall be given to any person who, at least three days prior to the meeting, shall have requested opportunity for discussion by notice directed to the City Clerk.

(2) Any member of the public may direct a written communication to the City Council on any matter concerning city business by directing the communication to the City Council through the Mayor, City Administrator or City Clerk. Any such written communication that cannot be handled administratively shall be placed on the agenda at the next regularly scheduled meeting.

(3) The presiding officer shall, from time to time, make such rules as he or she may deem necessary to fulfill and carry out the intent of the provisions of this section.

(4) As a general rule, each person addressing the City Council shall step up to the podium, state his or her name and address for the record, and unless further time is granted, limit his or her remarks to three minutes in length. All remarks shall be addressed to the City Council as a body and not to any member thereof. No person, other than the City Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the City Council, without permission of the Mayor or Presiding Officer.

(5) Nothing in this section shall prohibit any citizen from contacting a Council member(s) regarding an issue of concern.

(K) *Sanctions.*

(1) A vacancy may exist on the City Council if a Council member is absent more than a third of the regular meetings (eight meetings from December 1 to December 1), and a vacancy shall exist on the City Council if a Council member is absent more than five consecutive regular meetings, unless the absences are excused by a majority vote of the remaining members. This procedure, by law, requires notice and a hearing be provided to the Council member. (See Neb. RS 19-3101.)

(2) Members of the public who do not follow proper decorum after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council chambers.

(3) Council members should refer to the Mayor or City Administrator any city staff who do not follow proper decorum in their dealings with Council members, other city staff or the public. Such employees may be disciplined in accordance with city personnel regulations.

(4) City Council members who intentionally and repeatedly do not follow proper decorum may be reprimanded, formally censured by the Council and/or lose seniority or other committee assignments. Serious infractions of the code of conduct could lead to other sanctions as deemed appropriate by the City Council.

(5) It is the responsibility of the Mayor to initiate action if a Council member's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full City Council in a public meeting.

(6) If a violation is outside the observed behaviors of the Mayor or City Council, the alleged violation should be reported to the Mayor who will then conduct a study on the report and take the next appropriate action.

(7) These actions can be, but are not limited to: discussing and counseling the individual on violations; recommending sanction to the full City Council to consider in a public meeting; or forming a City Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

(L) *Checklist for monitoring conduct.*

- (1) Will my decision/statement/action violate the trust, rights or good will of others?
- (2) What are my interior motives and the spirit behind my actions?
- (3) If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- (4) How would my conduct be evaluated by people whose integrity and character I respect?
- (5) Even if my conduct is not illegal or unethical, is it done at someone else's expense?
- (6) Is my conduct fair? Just? Morally right?
- (7) If I were on the receiving end of my conduct, would I approve or agree or would I take offense?
- (8) Does my conduct give others reason to trust or distrust me?
- (9) Am I willing to take an ethical stand when it is called for?
- (10) Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- (11) Do I exhibit the same conduct in my private life as I do in my public life?
- (12) Can I take legitimate pride in the way I conduct myself and the example I set?
- (13) Do I listen and understand the views of others?
- (14) Do I question and confront different points of view in a constructive manner?
- (15) Do I work to resolve differences and come to mutual agreement?

(16) Do I support others and show respect for their ideas?

(17) Will my conduct cause public embarrassment to someone else?
(2002 Code, § 2-51) (Ord. 2012-28, passed 9-18-2012)

MEETINGS

§ 31.25 PUBLIC.

(A) All public meetings as defined by law shall be held in a city public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Council usually holds such meetings unless the publicized notice 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 Council and to the public by a method designated by the Council or by the Mayor if the Council has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the City Clerk. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of the meeting of the Council scheduled outside the corporate limits of the city. The Council shall have the right to modify the agenda to include items of an emergency nature only, at such public meetings.

(B) The minutes of the City Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings and the names of each member of the Council present or absent at each convened meeting. The minutes of the Council shall be a public record open to inspection by the public upon request at any reasonable time at the office of the City Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Council in open session. The record of the City Clerk shall show how each member voted or that the member was absent and did not vote.

(2002 Code, § 2-71)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 31.26 DEFINITIONS.

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

MEETINGS. 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.

PUBLIC BODY.

(a) The Council;

(b) All independent boards, commissions, bureaus, committees, councils, subunits, certificate of need appeal panels or any other bodies, now or hereafter created by constitution, statute or otherwise pursuant to law; and

(c) Advisory committees of these bodies.

(B) This subchapter shall not apply to subcommittees of such bodies unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(2002 Code, § 2-72)

Statutory reference:

Related definitions, see Neb. RS 84-1409

§ 31.27 REGULAR MEETINGS.

The meetings of the Council shall be held in the Council Chambers located in City Hall at 306 Pearl Street, Wayne, Nebraska. Regular meetings shall be held on the first and third Tuesdays of each month at the hour as designated in the advanced publicized notice of such meeting; however, if the regular Tuesday meeting is a holiday, or other conflicting date, the regular meeting shall be held on the preceding Monday or subsequent Wednesday or Thursday. At all meetings of the Council, a majority of the Council members shall constitute a quorum to do business.

(2002 Code, § 2-73) (Ord. 2007-4, passed 6-12-2007)

Statutory reference:

Related provisions, see Neb. RS 16-401

§ 31.28 QUORUM.

A majority of all members elected to the Council shall constitute a quorum for the transaction of business, but a less number may adjourn and compel the attendance of the absent members. An affirmative vote of not less than half of the elected members shall be required for the transaction of any business. ~~At the hour appointed for the meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present.~~ If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the Council members shall elect a President pro tempore.

(2002 Code, § 2-74)

Statutory reference:

Related provisions, see Neb. RS 16-401

§ 31.29 WITNESSES.

The Council or any committee of its members shall have power to compel the attendance of witnesses for the investigation of matters that may come before them. The presiding officer of the Council, or chairperson of such committee for the time being, may administer such requisite oaths. The Council or committee shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

(2002 Code, § 2-75)

Statutory reference:

Related provisions, see Neb. RS 16-406

§ 31.30 ORDER OF BUSINESS.

All meetings of the Council shall be called to order by the presiding officer at the time set for the meeting, whereupon the Clerk shall call the roll of Council members; and, if there is a quorum present, the Council shall proceed to business generally ~~in~~ in the order prescribed by the official agenda in the office of the City Clerk.

(2002 Code, § 2-76)

§ 31.31 RULES OF CONDUCT.

The business and proceedings of the meeting of the Council shall be conducted in accordance with the following rules.

(A) The presiding officer may refer back to any order of business after passing it if there is no objection from any Council member.

(B) The presiding officer shall preserve order at all meetings; and when any Council member is called to order, he or she shall be seated until the point is decided. All questions of order shall be decided by the presiding officer, subject to appeal to the Council. On such appeal, a Council member shall state briefly what, in his or her opinion, the ruling should have been and upon this appeal being seconded, the question of the appeal shall be put by the presiding officer.

~~—(C) When a question is being put by the presiding officer, no Council member shall leave the Council chambers.~~

~~—(D) Every Council member shall rise from his or her seat prior to speaking and address the presiding officer, who shall designate the Council member to speak if more than one shall rise at the same time.~~

(E) Upon request of any Council member, any motion or resolution shall be reduced to writing before being acted upon.

(F) Every Council member shall vote on each question put by the presiding officer unless excused from doing so by a majority of the Council present.

~~(G) No motion shall be put or discussed until it has been seconded.~~

(H) The minutes of the meeting shall show the Council member who offered or introduced a motion, resolution or ordinance and the seconding Council member.

(I) The yeas and nays upon any question shall be taken and entered on the minutes on request of any Council member.

~~(J) The Council may reprimand or censure any of its members for improper behavior as a Council member.~~

(K) Any resolution, ordinance or motion may be withdrawn by its introducer or mover with consent of the seconding Council member before it is voted upon.

(L) Motions to reconsider may only be made by a Council member who voted with the majority.

(M) The presiding officer may reasonably limit the time during which any person not a member of the Council may address a Council meeting.

(N) The presiding officer may express his or her opinion on any subject being discussed or debated by the Council.

(O) The rules **in this section 31.31** may be suspended on the affirmative vote of five members of the Council.
(2002 Code, § 2-77)

§ 31.32 NOTICE; CONTENTS; PROCEDURE.

Reasonable advanced publicized notice of the time and place of each meeting of the Council shall be given as follows.

(A) Such notice shall be given to any newspaper published within the city in sufficient time so that the notice may be printed in the last issue of the newspaper immediately preceding the meeting.

(B) Such notice shall contain a statement that the agenda for the meeting, which shall be kept continually current, shall be available for public inspection at the principal office of the city during normal business hours.

(C) An agenda for subjects known shall be posted on the front door of the City Hall, 306 Pearl Street, Wayne, Nebraska, at least three days prior to each meeting.

(D) An agenda of subjects known shall be transmitted to all members of the Council at least three days prior to each meeting.

(E) Except for items of an emergency nature, the agenda shall not be amended or modified later than 24 hours before the scheduled commencement of the meeting. The Council shall have the right to

modify the agenda to include items of an emergency nature at such public meeting.

(F) The City Clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(G) The minutes of every meeting shall reflect that the notice has been given.

(H) When it is necessary to hold an emergency meeting without reasonable advance notice, the city shall comply with the provisions of § 31.37 of this chapter.

(I) This section shall apply to all boards and agencies of the city.
(2002 Code, § 2-78) **Neb. RS 84-1411**

§ 31.33 CHANGE IN OFFICE.

(A) The Council shall meet at the first regular Council meeting in December in each year following the city election and the outgoing officers and the outgoing members of the Council shall present their reports. The outgoing members of the Council shall surrender their offices after their successors have qualified. Each outgoing appointee shall surrender to his or her successor in office all property, records, papers and moneys belonging to the office. The outgoing Council shall adjourn sine die. The newly elected Council shall then convene and proceed to organize itself for the ensuing year. The Mayor shall call the meeting to order. The new 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 required. The Council shall then elect one of its own body to be President of the Council. The Mayor shall then nominate his or her candidates for appointive offices, ~~board members and other city employee positions~~. Such officials and employees, when approved by the Council, shall hold office until their successors are duly appointed and qualified. The Mayor shall then proceed with the regular order of business.

(B) It shall be the duty of all members of the Council and other elective officials to qualify prior to the first regular Council meeting in December following their election. All appointive officers shall qualify within two weeks following their appointment.
(2002 Code, § 2-79) **Neb. RS 16-309**

§ 31.34 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the city's utilizing an electronic voting device which allows the yeas and nays of each member of the Council to be readily seen by the public.

(B) 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.

(2002 Code, § 2-80)

§ 31.35 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 § 31.31 of this chapter 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.

(2002 Code, § 2-81)

Statutory reference:

Related provisions, see Neb. RS 84-1411

§ 31.36 PUBLIC PARTICIPATION.

~~— (A) Subject to the provisions of this subchapter, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of a public body, except for closed meetings called pursuant to § 31.37 of this chapter, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.~~

~~— (B) It shall not be a violation of this subchapter for the 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.~~

~~— (C) The Council may not be required to allow citizens to speak at each meeting. The Council shall require any member of the public desiring to address the body to identify himself or herself, including place of residence.~~

~~— (D) No public body for the purpose of circumventing this subchapter shall hold a meeting in a place known by the Council to be too small to accommodate the anticipated audience. No public body shall be in violation of this section if it holds its meetings in its traditional meeting place.~~

~~— (E) An agency which contracts with municipalities outside the state may hold meetings of any committee outside the state if such meetings are held only in such contracting municipalities.~~

~~— (F) Final action on any agenda item shall only be taken by the agency of the meeting in the state, which meeting shall comply with Neb. RS 84-1408 through 84-1414.~~

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

~~(H) Anyone desiring to speak at a meeting of the public body must have the same item included in the agenda for compliance with the State Open Meeting Law.~~

~~(I) The public body shall make available at the meeting, for examination and copying by the public, at least one copy of all reproducible written material to be discussed at an open meeting. (2002 Code, § 2-82)~~

Statutory reference:

*Related provisions, see Neb. RS 84-1412 - **Mirror this Statute below please***

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

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

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting 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.

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

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

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

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

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

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

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

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

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

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

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

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

§ 31.37 CLOSED SESSIONS.

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

~~(1) Strategy sessions with respect to collective bargaining, real estate purchases or litigation;~~

~~(2) Discussion regarding deployment of security personnel or devices;~~

~~(3) Investigative proceedings regarding allegations of criminal misconduct; or~~

~~(4) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;~~

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

~~(C) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this~~

~~section, the term *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 division (A)(1) above.~~

~~—(D) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for the protection of the public interest or 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. Nothing in this section shall be construed to require that any meeting be closed to the public.~~

~~—(E) No person or public body shall fail to invite a portion of its members to a meeting, nor shall a public body designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this subchapter; nor shall any closed session, informal meeting, chance meeting, social gathering or electronic communication be used for the purpose of circumventing the provisions of this subchapter. The provisions of this subchapter 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.~~

(2002 Code, § 2-83)

Statutory reference:

Related provisions, see Neb. RS 84-1410 – Mirror this Statute please:

(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;

(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;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

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 of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

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

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

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

§ 31.38 SPECIAL MEETINGS.

(A) (1) Special meetings may be called by the Mayor, or by any four members of the Council, the object of which shall be submitted to the Council in writing. The call and object, as well as their

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disposition, shall be entered upon the journal by the City Clerk. On filing the call for a special meeting, the City Clerk shall notify the Council members of the special meeting, stating the time and its purpose.

(2) Notice of a special meeting need not be given to a Council member known to be out of the state, or physically unable to be present.

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

~~(B) (1) At the hour appointed for the meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present.~~

(2) 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.

(3) In the absence of both the Mayor and the President of the Council, the Council members shall elect a President pro tempore.

(4) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 31.50 through 31.60 of this chapter.

(2002 Code, § 2-84)

Statutory reference:

Special meetings, see Neb. RS 16-401

ORDINANCES

§ 31.50 GRANT OF POWER.

The Council shall have the responsibility of making all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be necessary and proper for maintaining the peace, good government and welfare of the city and its trade, commerce and security.

(2002 Code, § 2-111)

§ 31.51 RULES AND REGULATIONS.

All ordinances shall be passed pursuant to such rules and regulations as the Council may provide. All ordinances may be proven by the certificate of the City Clerk under the seal of the city. The passage, approval and publication or posting of any ordinance shall be sufficiently proven by a certificate under the seal of the city from the Clerk showing that such ordinance was passed and approved, and when and in what paper it was published. This code shall be received as evidence of the

passage and legal publication of its contents in all courts without further proof.

(2002 Code, § 2-112)

Statutory reference:

Related provisions, see Neb. RS 16-403

§ 31.52 ~~APPROPRIATION OF MONEY~~ ORDINANCES AND RESOLUTIONS; VOTES REQUIRED.

All ordinances, and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the Council. The Mayor may vote on such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the Council and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the Council members vote to suspend this requirement. Three-fourths of the Council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(2002 Code, § 2-113)

Statutory reference:

Related provisions, see Neb. RS 16-404

~~§ 31.53 READING.~~

~~— (A) (1) Ordinances, resolutions or orders for the appropriation of money shall require for their passage the concurrence of the majority of the members elected to the Council. Ordinances of a general or permanent nature shall be read by the title on three different days.~~

~~— (2) This requirement may be suspended by three-fourths vote of the Council; in such case, the ordinance may be read by title or number and then moved for final passage.~~

~~— (B) Three-fourths of the Council may require any ordinance to be read in full before final passage under either process.~~

~~(2002 Code, § 2-114)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-404~~

§ 31.54 PUBLICATION OR POSTING.

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

(2002 Code, § 2-115)

Statutory reference:

Related provisions, see Neb. RS 16-405

§ 31.55 STYLE.

The style of all city ordinances shall be: “Be it ordained by the Mayor and Council of the City of Wayne, Nebraska²².”
(2002 Code, § 2-116)

Statutory reference:

Related provisions, see Neb. RS 16-405

§ 31.56 TITLE.

No ordinance shall contain a subject not clearly expressed in its title.
(2002 Code, § 2-117)

Statutory reference:

Related provisions, see Neb. RS 16-404

§ 31.57 EMERGENCY ORDINANCES.

In the case of riot, infectious or contagious diseases, other impending danger, failure of a public utility or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor, and its posting in at least three of the most public places in the city.
(2002 Code, § 2-118)

Statutory reference:

Related provisions, see Neb. RS 16-405

§ 31.58 AMENDMENTS AND REVISIONS.

No ordinance or section of an ordinance shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and that ordinance or section so amended shall be repealed.

(2002 Code, § 2-119) **See Neb. RS 16-404**

§ 31.59 INTRODUCTION.

Ordinances shall be introduced by members of the Council in the following manner: With the recognition of the Mayor, a Council member may ~~present a proposed ordinance to the City Clerk, who, in the presence and hearing of a majority of the members elected to the Council, shall read the title of the ordinance and shall file the ordinance~~ **introduce the ordinance and move for approval.**

(2002 Code, § 2-120)

§ 31.60 RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced by the method prescribed for the introduction of ordinances. ~~After their introduction, the substance shall be read in the presence and hearing of a majority of the members elected to the Council.~~ The issue raised by resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted by the Council. A majority vote of the members elected to the Council shall be required to pass any resolution. A vote of half of the members elected to the Council shall be required to pass any motion, except as provided in §§ 31.52 and 37.51 of this code. The Mayor may vote on any such matter when his or her vote shall be decisive and the Council is equally divided, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council.

(2002 Code, § 2-121)

Statutory reference:

Related provisions, see Neb. RS 16-404

CHAPTER 32: OFFICIALS AND EMPLOYEES

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Statutory reference:

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GENERAL PROVISIONS**§ 32.001 PROPERTY.**

Every officer and employee of the city or of any of its boards or departments shall promptly and fully account for and deliver to his or her successor or as otherwise directed by the Council all money, equipment and other property of the city which he or she has in his or her possession or has received from the city during his or her term of office or employment.

(2002 Code, § 2-151)

§ 32.002 CHARGES AGAINST.

Any person may make a charge of misconduct in office against any city official, which charge shall be in writing and under oath and shall specify the nature of the misconduct claimed, which charge shall be filed with the City Clerk. Such charge shall be ~~fully read~~ **addressed** at the next regular meeting of the Council or at a special meeting called for that purpose; and, if so ordered by the Council, a copy of such charge, certified by the City Clerk, shall be served upon the officer charged, together with a notice that he or she shall show cause, at a meeting of the Council, why he or she should not be removed from office.

(2002 Code, § 2-152)

§ 32.003 EMPLOYMENT OF FAMILY MEMBER; WHEN; EXCEPTION.

~~(A) Notwithstanding Neb. RS 49-1499 and 49-14,101(3), an immediate family member of a public official or public employee may be employed by the city if that public official or public employee has no management or supervisory responsibility of such employee. In addition, such public official or public employee must not abuse his or her official position and must make a full disclosure on the record to the Council or a written disclosure to the person in charge of keeping records for the Council. No public official or public employee shall employ an immediate family member without first having made a reasonable solicitation and consideration of applications for such employment.~~

~~(B) Except for making a full disclosure provided by Neb. RS 49-1499.01 and 49-14,103.01 through 49-14,103.06, this section shall not apply to an immediate family member of a public official or public employee who:~~

~~(1) Was previously employed in a position subject to this section prior to the election or appointment of the public official or public employee; or~~

~~(2) Was employed in a position subject to this section prior to 7-17-1986.~~

~~(C) Any newly elected or appointed public official or employee shall make a full disclosure of any immediate family member employed in a position subject to this section, prior to or as soon as reasonably possible after the official date of taking office.~~

~~(2002 Code, § 2-153) (Ord. 2000-8, passed 5-9-2000)~~

1) An official or employee of a political subdivision may employ or recommend or supervise the employment of an immediate family member if (a) he or she does not abuse his or her official position as described in section 49-1499.05, (b) he or she makes a full disclosure on the record to the governing body of the political subdivision and a written disclosure to the person in charge of keeping records for the governing body, and (c) the governing body of the political subdivision approves the employment or supervisory position.

(2) No official or employee shall employ an immediate family member (a) without first having made a reasonable solicitation and consideration of applications for such employment, (b) who is not qualified for and able to perform the duties of the position, (c) for any unreasonably high salary, or (d) who is not required to perform the duties of the position.

(3) No official or employee of a political subdivision shall terminate the employment of another employee so as to make funds or a position available for the purpose of hiring an immediate family member.

(4) This section does not apply to an immediate family member of an official or employee who (a) was previously employed in a position subject to this section prior to the election or appointment of the official or employee or (b) was employed in a position subject to provisions similar to this section prior to September 1, 2001.

(5) Prior to, upon, or as soon as reasonably possible after the official date of taking office, a newly elected or appointed official or employee shall make a full disclosure of any immediate family member employed in a position subject to subdivision (4)(a) or (b) of this section.

Neb. RV 14-1499.04

~~§ 32.004 BONDS REQUIRED.~~

~~— (A) (1) Official bonds of the city shall be in form, joint and several, and shall be made payable to the city in such penalty as the Council may set by resolution, which sums shall be on file at the office of the City Clerk, and the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official. All official bonds of city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity or bonding company.~~

~~— (2) No city official, while still in his or her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the state shall be eligible for suretyship on the bond of an official of the city.~~

~~— (B) All bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the city and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the Council and all sureties are endorsed in writing on the instrument by the Mayor and City Clerk pursuant to the approval of the Council. The premium on any official bond required to be given may be paid out of the General Fund, or other proper city fund, upon a resolution to that effect by the Council at the beginning of any city year.~~

~~— (C) All official bonds, meeting the conditions of this section, shall be filed with the City Clerk for his or her official records, and it shall be the duty of the City Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the Council. If the sureties on the official bond of any officer of the city, in the opinion of the 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 should fail, refuse or neglect to file 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.~~

~~—(D) Any official who is reelected to office shall be required to file a new bond after each election.~~

~~(2002 Code, § 2-154)~~

~~Statutory reference:~~

~~—Bonds of municipal officers, see Neb. RS 16-219~~

§ 32.005 OATH.

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

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

(2002 Code, § 2-155)

Statutory reference:

Related provisions, see Neb. RS 11-101

APPOINTED OFFICIALS

§ 32.020 ENUMERATED.

The Mayor may, by and with the advice and consent of a majority of the Council, appoint an Administrator, Treasurer, Clerk, Engineer, Attorney, Physician, Chief of the Fire Department, Chief of Police, Director of Emergency Management, ~~Water/Wastewater Superintendent~~, ~~Recreation/Leisure Services Director~~, ~~Public Works Superintendent~~, **Superintendent of Public Works & Utilities**, **Superintendent of Electric Production**, **Building Official**, and Coordinator of the Senior Citizens Center. Any appointed officer may be removed at pleasure by a vote of a majority of all the members of the Council. All confirmations of appointments to such offices by the Council shall be by a majority of all members of the Council.

(2002 Code, § 2-181) (Ord. 97-5, passed 3-25-1997)

Statutory reference:

Authority to appoint officers, see Neb. RS 16-308

§ 32.021 TERM OF OFFICE.

All officers appointed by the Mayor and confirmed by the Council shall hold the office to which they may be appointed until the end of the Mayor's term of office and until their successors are appointed and qualified, unless sooner removed, or the ordinance creating the office shall be repealed, except as otherwise specifically provided.

(2002 Code, § 2-182)

Statutory reference:

Related provisions, see Neb. RS 16-~~300~~ 309

§ 32.022 CREATION OF OFFICE.

The Council may create any office that it may deem necessary for the good government and interest of the city.

(2002 Code, § 2-183)

Statutory reference:

Related provisions, see Neb. RS 16-308

§ 32.023 MERGER OF OFFICES.

The Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The Council may by ordinance delegate this authority to combine appointive offices to a city official. The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined.

(2002 Code, § 2-184)

Statutory reference:

Related provisions, see Neb. RS 16-305

~~**§ 32.024 DUTIES PRESCRIBED.**~~

~~—The Council may regulate and prescribe by ordinance the powers, duties and compensation of the officers of the city not specifically delineated by state law. The Council may classify the several offices and positions of trust or employment in the public service on the basis of merit through such agency as the Council shall provide for that purpose.~~

~~(2002 Code, § 2-185)~~

~~**Statutory reference:**~~

~~—Related provisions, see Neb. RS 16-218~~

§ 32.025 REPORTS.

The Council may require from any officer of the city at any time a report in detail of the transactions of his or her office or of any matters connected with the office.

(2002 Code, § 2-186)

Statutory reference:

Related provisions, see Neb. RS 16-220

§ 32.026 CITY ATTORNEY.

The City Attorney shall be the legal advisor of the Council and city officers. The City Attorney shall commence, prosecute and defend all suits and actions necessary to be commenced, prosecuted or defended on behalf of the city, or that may be ordered by the Council. He or she shall attend meetings of the Council and give them his or her opinion upon any matter submitted to him or her, either orally or in writing as may be required. He or she shall draw all ordinances, contracts and other documents requested by the Mayor and Council. The Council shall have the right to pay the City Attorney additional compensation for legal services performed by him or her for the city or to employ additional legal assistance and to pay for such legal assistance out of the funds of the city.

(2002 Code, § 2-187)

Statutory reference:

Related provisions, see Neb. RS 16-319

§ 32.027 SPECIAL COUNSEL.

Whenever, in the judgment of the Council, it shall be deemed necessary or expedient, the Council may employ, in addition to the regular City Attorney, an attorney, both for substituted and supplemental services, or for special items of legal service, and pay for them out of the General Fund of the city for incidental purposes.

(2002 Code, § 2-188)

§ 32.028 ~~CITY TREASURER; DUTIES, BOOKS, ANNUAL REPORT.~~

~~(A) The Treasurer of the city shall be custodian of and receive 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 to either. He or she shall, at the end of every month, and as often as may be requested, render an account to the Council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid, and the balance of money in the treasury. He or she shall accompany such account with a statement of all receipts and disbursements, together with all warrants retained and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the Council or its committee that he or she has such funds in his or her custody or under his or her control. If the City Treasurer neglects or fails, for the space of ten days from the end of every month, to render his or her account, his or her office may, by resolution of the Council, be~~

~~declared vacant; and the Mayor shall appoint and the Council confirm some person to fill the vacancy. The City Treasurer shall keep his or her books and accounts in such a manner as the Council shall prescribe and shall keep a daily cashbook. All of the books and accounts of the City Treasurer shall always be subject to inspection by the Mayor, members of the Council and such other persons as they may designate. The City Treasurer shall perform such other duties as are required of him or her by the laws of the city and the statutes of the state. The City Treasurer shall keep all money in his or her hands belonging to the city separate and distinct from his or her own money; and he or she is expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his or her custody and keeping for his or her own use and benefit or that of any other person whomsoever. Any violation of this section shall subject the City Treasurer to immediate removal from office by the Council, and it may declare such office vacant. The Mayor shall appoint a successor, who shall be confirmed by the Council, to hold office for the remainder of the term.~~

~~(2002 Code, § 2-189)~~

~~— (B) The City Treasurer shall give every person paying money into the treasury and his or her office a receipt, which 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 money was paid in cash, in warrants or otherwise, one of which copies the City Treasurer shall deliver to the person making such payment and the other he or she shall retain in his or her office and file such copy with his or her monthly reports.~~

~~(2002 Code, § 2-190)~~

~~— (C) The City Treasurer shall daily, as moneys are received, foot the several columns of his or her cashbook and of his or her register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the City Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in such register and shall carry forward the excess. Any City Treasurer who shall fail regularly to enter upon his or her cashbook the amounts so received and receipted for, or who shall fail to keep his or her cashbook footed from day to day, for the space of three days, shall forfeit for each offense the sum of \$100, to be recovered in a civil action on his or her official bond by any person holding a warrant drawn on the City Treasurer, half to the person bringing such action and half to the School Fund of the county. The cashbook, register and retained receipts of the City Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.~~

~~(2002 Code, § 2-191)~~

~~— (D) It shall be the duty of the City Treasurer to prepare and publish annually, within 60 days following the close of the city's fiscal year, a statement of the receipts and expenditures by funds of the city for the preceding fiscal year. Not more than the legal rate shall be charged and paid for such publication. Such publication shall be made in one legal newspaper of general circulation in the city. Any City Treasurer failing or neglecting to prepare and publish such statement of receipts and expenditures shall be deemed guilty of a misdemeanor and shall be removed from office for such failure or neglect.~~

~~(2002 Code, § 2-192)~~

Statutory reference:

*Related provisions, see Neb. RS 16-318 **Mirror Neb. RS 16-318 below***

City treasurer; bond or insurance; premium; duties; reports.

(1) The treasurer shall be required to give bond or evidence of equivalent insurance of not less than twenty-five thousand dollars, or he or she may be required to give bond in double the sum of money estimated by the city council at any time to be in his or her hands belonging to the city. The treasurer shall be the custodian of all money belonging to the corporation. The city council shall pay the actual premium of the bond or insurance coverage of such treasurer.

(2) The treasurer 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 date of payment and on what account paid. He or she shall also file copies of such receipts, except tax receipts, with his or her monthly reports, and he or she shall at the end of every month, and as often as may be requested, render an account to the city council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. The treasurer shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the council or its committee that he or she has such funds in his or her custody or under his or her control. If the treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the council, the mayor with the consent of the council may consider this failure as cause to remove the treasurer from office.

(3) The treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to section 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

(4) The treasurer may employ and appoint a delinquent tax collector, who shall be allowed a percentage upon his or her collections to be fixed by the council, not to exceed the fees allowed by law to the county treasurer for like services. Upon taxes collected by such delinquent tax collector, the treasurer shall receive no fees.

(5) The treasurer shall prepare all special assessment lists and shall collect all special assessments.

§ 32.029 CITY TREASURER, CITY CLERK; SAFETY DEPOSIT BOX.

The city shall maintain a safety deposit box at the designated financial institution; and the City Clerk and City Treasurer shall have access to the box, with shared responsibilities and duties for maintaining the safety deposit box and its contents.

(2002 Code, § 2-193)

§ 32.030 CITY CLERK.

(A) The Mayor shall, with the consent of a majority of the Council, appoint the City Clerk. The authority to appoint the City Clerk may be delegated. Except when some other person is specifically appointed, the City Clerk shall be and assume the duties of the City Treasurer. It shall be the duty of the City Clerk to attend every meeting of the Council and keep a record of its proceedings; provided that, after a period of time specified pursuant to Neb. RS 84-1201 through 84-1220, the Clerk may transfer such journal of the proceedings of Council to the state archives of the State Historical Society for permanent preservation. Whenever required by the Mayor or requested by four members of the Council, he or she shall deliver a notice to the members of the Council of any special meeting of the Council and shall notify any and all committees of the Council of the business entrusted to them.

(B) The City Clerk shall keep and carefully preserve all papers and books which may come into his or her possession as City Clerk, filing and arranging them in a manner convenient for reference.

(C) The City Clerk shall keep the seal of the city and duly attest by the seal the Mayor's signature to all ordinances and all deeds and papers required to be attested, when ordered by the Council.

(D) The City Clerk shall keep all orders for money or warrants for the payment of money and shall enter them in numerical order in a book to be kept for that purpose.

~~(E) The City Clerk shall keep a register of all licenses granted and the purpose for which they were issued and report to the Council at every meeting. At the beginning of each month, he or she shall, if required by the Council, furnish the Police Department with a true copy of the register of all licenses then in force. He or she shall issue licenses and collect license fees connected with such licenses as provided by the laws of the state or the city.~~

(F) Within 30 days after any meeting of the Council, the City Clerk shall prepare and publish the proceedings of the Council in a legal newspaper, or more than one legal newspaper if directed by the Council. The charge for publication shall not exceed the rates provided by law. The publication charge shall be paid and allowed as other claims against the General Fund.

~~(G) The City Clerk shall keep a record of all outstanding bonds against the city, showing the number and amount of each, for and to whom the bonds were issued. When any bonds are purchased, paid or canceled, the City Clerk's record shall show such fact.~~

(H) The City Clerk shall have such additional duties and receive such salary as the Council may prescribe.

(2002 Code, § 2-194)

Statutory reference:

Related provisions, see Neb. RS 16-317

§ 32.031 PUBLICATION OF CLAIMS.

The City Clerk shall include in the minutes of each meeting published, as required in § 32.030 of this chapter, the amount of each claim allowed, the purpose of the claim and the name of the claimant;

except that, the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the ~~names of all employees~~ **employee job titles**, and their current annual, monthly or hourly salaries shall be published; ~~and any changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January and April shall be published during the months of November, February and May.~~ Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in Neb. RS 23-122.

(2002 Code, § 2-195)

Statutory reference:

Related provisions, see Neb. RS 19-1102

§ 32.032 CITY ENGINEER.

The City Engineer, if one is appointed, shall, when requested by the 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, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, gutters, the improvement of streets and the erection and repair of buildings. He or she shall perform such additional duties as the Council may require. The City Engineer shall make a record of the minutes of his or her surveys and of all work done for the city and accurately make such plats, sections, profiles and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the city. Records of the City Engineer shall be public records and shall be on file at the office of the City Clerk. It shall be unlawful for any City Engineer or special City Engineer to neglect or fail to turn over all records, estimates, surveys and other materials requested or owned by the city developed in the exercise of duties as City Engineer or special City Engineer to the Council upon request or at the termination of services in such office.

(2002 Code, § 2-196) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 16-320, 16-321

§ 32.033 SPECIAL ENGINEER.

The Council may, whenever it deems it expedient, employ a special engineer to make or assist in making any particular estimate or survey. Any such estimate or survey shall have the same validity and serve in all respects as though made by the City Engineer. The special Engineer so employed shall at all times be subject to the directives of the City Engineer.

(2002 Code, § 2-197)

Statutory reference:

Related provisions, see Neb. RS 16-322

§ 32.034 CITY PHYSICIAN.

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The City Physician shall be a physician who resides permanently in the city. He or she shall be a member of the Board of Health of the city and shall be its medical adviser. When requested by the Mayor or City Attorney, he or she shall investigate all cases of injury to persons in which liability against the city may be asserted and make a written report, including the circumstances causing the injury and the nature and extent of the injury. The report shall be in writing and shall be made to the Mayor. For the purpose of making examinations of the sanitary conditions of the property and the health or disease of the occupants, the City Physician shall have the right at all reasonable hours to go upon and enter all premises, buildings or other structures in the city. He or she shall make or cause to be made all necessary laboratory tests and issue such health certificates as may be required by city law. He or she shall perform such other duties of a medical and healthful nature as shall be assigned to him or her by the Council. He or she shall receive no compensation as a member of the Board of Health, nor any salary as City Physician, but shall be allowed compensation for services so assigned to him or her and rendered the city at the usual rates prevailing in the city for such services.

(2002 Code, § 2-198)

Statutory reference:

Physician to be on a board of health, see Neb. RS 16-238

§ 32.035 CHIEF OF POLICE.

(A) The Chief of Police shall have the immediate superintendence of the police. He or she and the police officers shall have the power, and it shall be their duty, to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as a sheriff and keep them in the city detention center or other place to prevent their escape, until a trial or examination may be had before the proper officer; and they shall have the same power as a sheriff in relation to all criminal matters arising out of a violation of a city law and all process issued by the County Court. ~~In connection with a violation of a city law, they shall arrest and detain any person found violating any state or federal law or any law of the city until a legal warrant can be obtained.~~ Each member of the City Police Department shall have the duties of becoming well-informed as to the laws of the state and laws of the city, of enforcing such laws, of wearing ~~at all times~~ the badge, uniform and insignia furnished by the city for the police and of properly caring for them, and such further duties as shall be assigned to them by the Council and as are otherwise provided by law.

(B) The Chief of Police shall:

- (1) Have custody of all city property used by the city police;
- (2) Be a member of the Board of Health and its Secretary and Quarantine Officer;
- (3) Have charge of traffic control on the city streets;
- (4) Execute and serve or cause to be served all process required for the violation of city law;
- (5) Make and file or cause to be made and filed complaints for violations of the laws of the city; ~~and~~
- (6) Serve as Emergency Management Director pursuant to Neb. RS 81-829.36 et seq.;**

and

(7) Perform such other duties as are assigned to or required of him or her by the Council or otherwise provided by law.

~~(C) Police officers and the Police Chief shall have the power and authority to call on any person whenever necessary to assist them in making an arrest, or to take any person before the proper judicial official or to some place of confinement. Any person who shall fail, neglect or refuse to assist any such officer whenever called upon to do so shall be deemed to be guilty of a misdemeanor. Any police officer who shall willfully fail, neglect or refuse to make an arrest or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor.~~

(2002 Code, § 2-199)

Statutory reference:

Related provisions, see Neb. RS 16-323

§ 32.036 PUBLIC WORKS SUPERINTENDENT.

(A) The Public Works Superintendent shall be subject to the orders of the Council and under the supervision of the City Administrator. He or she shall have general charge, direction and control over all work on the streets, sidewalks, culverts and bridges of the city, and he or she shall also perform such other duties as the Council may require.

(B) The Public Works Superintendent shall have general control of all sidewalks and sidewalk spaces in the city. It shall be his or her duty to see that sidewalks and the sidewalk space are not unlawfully occupied. He or she shall report all obstructions and any unlawful use to the Council. He or she shall have the authority to go upon private property and to enter any areaways under sidewalks at reasonable hours. He or she shall serve all notices pertaining to sidewalks, crossings and alleys; and he or she shall keep in a suitable book an accurate record of each notice so served, with the time and manner of such service. He or she shall likewise keep a record of all sidewalks ordered built. He or she shall view and inspect any and all lots and parcels of land within the city for growing weeds at least one time in each month during the growing season. If noxious weeds are found growing, he or she shall notify the owner or occupant to cut down the weeds as close to the ground as can be practically done and keep the weeds cut in like manner during the growing season for weeds. If the owner of any lot or parcel of land is a non-resident or cannot be found, the notice may be given to any person having the care, custody or control, or to any agent, factor or rent collector of the owner. If no one can be found within the city to whom the notice can be given, it shall be the duty of the Public Works Superintendent to post a copy of the notice on the premises. After the time limit prescribed on the notice has expired, he or she shall immediately cut or cause the weeds to be cut and report the cost to the Council. The bill shall be audited and paid by the city, and the amount shall be assessed against the parcel of land as a special tax and be levied and collected as are other taxes of the city. The Public Works Superintendent shall view sidewalks contiguous on any lots within the corporate limits to ascertain if any snow, sleet, mud, ice or other substance remains on the sidewalks contrary to law. If any of such substances are found on the sidewalks contrary to law, the Public Works Superintendent shall serve a notice in writing upon the owner or occupant of the premises contiguous to the sidewalk to remove the substance. If the person owning or occupying such premises is unknown or cannot be found, or if any reasonable service cannot be had upon the owner, agent or occupant within the city, such service of notice shall be made by posting a typewritten copy in some conspicuous place on the premises. If the owner, agent or occupant shall fail to remove the ice, snow, mud or other substance within the time prescribed on the notice, it shall be the duty of the Public Works Superintendent or other agent of the city to remove such substance. The expense shall be charged against the property and the owner and may be recovered by proper action in the name of the city or may be charged against the property as a special assessment for improvements in the manner provided in respect to the cutting of weeds.

(2002 Code, § 2-200)

§ 32.037 ~~BUILDING INSPECTOR~~ **OFFICIAL**.

The Building ~~Inspector~~ **Official** is authorized and directed to enforce all the provisions of this code pertaining to building construction and repair **as the Code Official**. For such purpose, he or she shall have the powers of the city police. In accordance with his or her duties and upon presentation of proper credentials, the Building ~~Inspector~~ **Official**, or his or her duly authorized representative, may enter at all reasonable times any building, structure or premises to perform any duty imposed upon him or her by any Building Code, ~~Electrical Code~~, Plumbing Code, **Property Maintenance Code**, or Gas Code duly adopted by reference in this code, or any provision of this code. Whenever any building or construction work is being done contrary to the provisions of such codes, it shall be the duty of the Building ~~Inspector~~ **Official** to order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Any such person shall immediately stop, or cause to be stopped, such work until authorization is received from the Building ~~Inspector~~ **Official** to continue

the work. When any structure is in a dangerous condition or the building is being used contrary to the provisions of the laws of the city, the Building ~~Inspector~~ **Official** may order such use discontinued or the structure or portion in violation vacated. The Building ~~Inspector~~ **Official**, acting in good faith and without malice in the discharge of his or her duties, shall not render himself or herself personally liable and is relieved from all personal liability for any damage that may accrue to person or property as the result of any act or omission in the discharge of his or her duties. Any suit brought against the Building ~~Inspector~~ **Official**, because of an alleged act or omission performed by him or her in the enforcement of any provision of the city's codes relating to buildings or building construction shall be defended by the Legal Department of the city until final termination of the proceedings. The Building ~~Inspector~~ **Official** may request, and shall receive so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of other officials of the city. The position of City Building ~~Inspector~~ **Official** shall be under the responsibility and jurisdiction of the City Administrator.
(2002 Code, § 2-201)

§ 32.038 FIRE CHIEF.

(A) 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, upon being confirmed by the Council, shall hold office until his or her successor shall be appointed and qualified. The Chief of the Fire Department shall be subject to removal by the Mayor at any time. The Fire Chief shall, on or before the last Tuesday in April of each year, furnish or cause the Secretary to furnish the City Clerk a copy of the roster of the members of the Fire Department in good standing; and, from month to month thereafter, he or she shall report any proposed additions or changes in the roster for proper action by the Council so that all members of the Fire Department shall be at all times covered by insurance or by such other lawful protections and benefits as may be provided under state or city law.

(B) The Chief of the Fire Department shall have under his or her control the property, implements and apparatus used by the Fire Department, subject to the general and specific directives of the Council. He or she shall use all proper means for the extinguishment of fires, the protection of property, the preservation of order and the enforcement of all laws relating to fires and fire protection which governs the city. Upon the written consent and directive of the Council, the Fire Chief shall cause the repair, improvement or maintenance of the property of the Fire Department and shall personally supervise and approve of such action.

(C) No obligation, except in an emergency or when the expenditure is of a minor nature, shall be incurred on behalf of the Fire Department by the Fire Chief unless the obligation was previously authorized in writing by the Council.
(2002 Code, § 2-202)

§ 32.039 COORDINATOR OF SENIOR CITIZENS CENTER.

The Coordinator of the Senior Citizens Center shall be subject to the orders of the City Administrator. The Coordinator shall have the general charge, direction and control of the Senior Citizens Center and shall be responsible for the general operation of the Senior Citizens Center and

shall be subject to all of the rules and regulations governing other city employees. The Coordinator shall perform such other duties as the City Administrator may require.
(2002 Code, § 2-203)

~~§ 32.040 DIRECTOR OF EMERGENCY MANAGEMENT.~~

~~— (A) The Director of Emergency Management shall serve a one-year term of office. Such term shall be from the first Tuesday in June to the succeeding first Tuesday in June of each year. When a vacancy shall occur for any reason, the Mayor shall appoint a new Director to serve the unexpired term. The Director shall be a volunteer and shall serve without compensation. He or she shall have the direct responsibility for the organization, administration and operation of the Emergency Management Organization of the city subject only to the direction and control of the Council. The Director shall, in collaboration with other public and private agencies within the state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in the event of a disaster too great to be dealt with by any single municipality. Such arrangements shall be consistent with the Emergency Management Plan and Program of the state; and in time of emergency, it shall be the duty of the Director and all persons in the emergency management organization to render assistance in accordance with the provisions of such mutual aid arrangements.~~

~~— (B) The Director may, subject to the approval of the Council and the Governor, enter into mutual aid arrangements with emergency management agencies or organizations for reciprocal emergency management aid and assistance in the event of any great disaster. The Director may, with the consent and approval of the majority of the Council, appoint assistants to assist him or her in the performance of the duties and functions of the Emergency Management Organization; and all assistants so appointed shall be volunteers and serve without compensation and shall be under the direction and control of the Director in the performance of all duties and functions required by state law. The term of office of such assistants shall be during the pleasure of the Council. It shall be the duty of the Director and all assistants to execute and enforce such orders, rules and regulations as may be made by the governor under the authority of applicable civil defense statutes as well as any other duty imposed upon them by other applicable state laws.~~

~~(2002 Code, § 2-204)~~

~~Statutory reference:~~

~~— Appointment of director, see Neb. RS 81-829.46(3)~~

~~— Emergency Management Act, see Neb. RS 81-829.36 et seq.~~

§ 32.041 DIRECTOR OF RECREATION-LEISURE SERVICES.

(A) *Office created.* There is hereby created the Office of Director of Recreation-~~Leisure~~ Services. The Director shall be appointed by the Mayor, with the consent of a majority of the Council, and shall be under the supervision of the City Administrator.

(B) *Duties and responsibilities.* The duties and responsibilities of the Director shall include the following:

- (1) Selecting, developing and supervising paid staff and volunteers;
 - (2) Supervising, planning, designing, constructing and maintaining parks and leisure services facilities in cooperation with other departments;
 - (3) Evaluating effectiveness of recreation and leisure services areas, facilities and programs;
 - (4) Developing and implementing budgetary and fiscal management plans and programs;
 - (5) Developing and promoting comprehensive plans for recreation, parks and leisure services programs and facilities that meet the needs of the community;
 - (6) Working to ensure that recreation, parks and leisure services are well balanced, coordinated and integrated in the community;
 - (7) Interpreting programs of the office to the public and maintaining cooperative planning and working relationships with allied public and advisory agencies; and
 - (8) Performing such other duties and responsibilities as may be directed by the City Administrator.
- (2002 Code, § 2-205) (Ord. 93-18, passed 11-30-1993)

§ 32.042 CITY ADMINISTRATOR.

(A) *Office created.* There is created the Office of City Administrator for the city; such officer may be appointed by the Mayor, by and with the consent of the Council. The City Administrator may be removed at pleasure by a vote of a majority of all the members of the Council with the approval of the Mayor. He or she shall be appointed on the basis of merit alone and need not be a resident of the city or the state when appointed. He or she shall devote his or her full time to the diligent prosecution of his or her office and shall have no other conflicting or distracting employment.

(B) *Acting City Administrator.* The City Administrator shall nominate a department head, or other employee of the city to serve as acting City Administrator during the temporary absence from the city of the City Administrator. Such nominee, when confirmed by the Council, shall perform all the duties and exercise all the powers of the City Administrator during the period of disability or absence of the City Administrator, but shall receive no additional compensation.

(C) *Purpose of office.* The purpose of the Office of the City Administrator is to provide the centralization of the administrative responsibilities of the city, such Administrator to be the administrative head of the city government under the direction and control of the Council and to be responsible to the Council for the efficient conduct of his or her office.

(D) *Duties.* The duties of the City Administrator shall be as follows.

- (1) He or she shall make and keep up to date an inventory of all property, real and personal, owned by the city. He or she shall act as purchasing agent for the purchase of all supplies, goods, wares and merchandise, material and equipment which may be required for the various departments, divisions

or services of the city.

(2) He or she shall keep the Council fully advised as to the financial condition of the city and its needs. He or she shall be responsible for and prepare the annual estimate of revenues and expenditures, together with a proposed budget for presentation to the Council prior to consideration by the Council of the adoption of the annual appropriations ordinance. When a budget has been adopted and an appropriation ordinance passed, he or she shall be responsible for the control of budgeted expenditures.

(3) He or she shall serve as public relations officer of the city government and, in such capacity, shall investigate and adjust all complaints filed against any employee, department, division or service of the city and cooperate with all community organizations whose aim and purpose is to advance the best interests of the city and its people, and shall attend meetings of such organizations if, in his or her judgment, such attendance is necessary and desirable.

(4) He or she shall attend all meetings of the Council, with the duty of reporting any matter concerning city affairs under his or her supervision or direction, and to attend such other meetings of city departments, divisions and services of the city government and of all employees, and to make recommendations to the Council. He or she shall faithfully carry out directives and recommendations of the Council in coordinating the administrative functions and operations of the various departments.

(5) He or she shall procure facts and submit proposals for long range programs and improvements to the Council. He or she shall make recommendations to the Council in any matter believed by him or her to be necessary or expedient.

(6) He or she shall recommend to the Council the appointment and dismissal of all department heads over which he or she exercises jurisdiction. Appointment and dismissal of department heads will be made upon the recommendations of the Mayor and confirmation by the Council. The City Administrator may appoint and dismiss all subordinate employees of the city, as well as provide for the transfer of such employees from one department to another; except that, he or she shall not discharge those employees covered under the civil service act of the state. The City Administrator shall have the duty and the right to investigate and make recommendations to the Council regarding activities of any employee of the city covered by the civil service act of the state including the filling of vacant positions consistent with § 33.22 of this code.

(7) He or she shall administer and be responsible for all departments and divisions of the city government which are under the direction of the Council, including Police and Fire Departments, except as insofar as such jurisdiction and administration conflicts with the civil service law pertaining to Police and Fire Departments.

(8) He or she shall prepare and recommend to the Council a classification and compensation plan. He or she shall be the Personnel Officer of the city and shall keep and maintain appropriate records of the employment status of each employee.

(9) He or she shall see to the fair and impartial enforcement of ordinances of the city and to the faithful performance of any contract or obligation running to the city.

(10) He or she shall exercise general supervision over all public buildings, streets and other public property which are under the control and jurisdiction of the Council.

(11) He or she shall cause to be prepared, if requested, and submit to the Council as of the end of each month and of the fiscal year a complete report on the finances and administrative activities of the city for the preceding period.

(12) He or she shall serve in any appointed office or head of department within the city government if the need arises; and when appointed by the Council, hold and perform the duties at the pleasure of the Council.

(13) He or she shall perform such other duties and exercise such other powers as may be delegated to him or her by ordinance or resolution of the Council.

(14) He or she shall have the duty to keep open his or her office for public affairs during days and hours set by the Council and shall perform such other duties and exercise such other powers as may be delegated to him or her by ordinance or resolution of the Council.

(E) *Compensation.* The salary of the City Administrator shall be fixed by resolution of the Council, payable at the same time as other employees.

(F) *Line of authority.* The Council and its members shall deal with the administrative services of the city only through the City Administrator, except for the purpose of inquiry, and neither the Council nor any members of the Council shall give orders to any subordinate of the City Administrator.

(G) *Jurisdiction over City Clerk and City Treasurer.* The Offices of the City Clerk and the City Treasurer are placed under the jurisdiction of the City Administrator.
(2002 Code, § 2-206)

COMPENSATION

§ 32.055 ADOPTION OF SCHEDULE.

(A) Salaries of officers and employees of the city shall be in such amount as the Council shall fix by resolution. After the Council has adopted a wage and salary schedule with appropriate employee classifications and wage ranges for each classification, by resolution, such resolution shall be sufficient for all changes in salary for city employees included without further resolutions being passed, approved and published. All salaries shall be on file at the office of the City Clerk and available for public inspection at any reasonable time.

(B) The salaries and compensation filed in the office of the City Clerk shall not be construed to preclude the additional payment of mileage and expenses to officers and employees of the city, if and when claims are duly filed, audited and allowed.
(2002 Code, § 2-231)

§ 32.056 CHANGE IN SALARY.

(A) The emoluments of any elected official shall not be increased or diminished during the term of office for which he or she was elected, except that elected officials who are elected to the Council or other body having more than one member and terms of one or more members commence and end at different times, the compensation of all members of that body may be increased or diminished at the beginning of the full term of any member.

(B) No person who shall have resigned or vacated any elective office shall be again eligible to hold the office during the term he or she was elected to if, after resignation, the emoluments have been increased.

(2002 Code, § 2-232)

Statutory reference:

Related provisions, see Neb. RS 16-326

§ 32.057 EXTRA COMPENSATION PROHIBITED; EXCEPTION.

No officer of the city shall receive any pay or prerequisites from the city other than his or her salary, as provided by resolution; and the Council shall not pay or appropriate any money or any valuable thing to any person not an officer for the performance of any act, service or duty the doing or performance of which shall come within the proper scope of the duties of any officer of the city unless specifically appropriated and ordered by a vote of three-fourths of all members of the Council.

(2002 Code, § 2-233)

Statutory reference:

Related provisions, see Neb. RS 16-502

~~CONFLICT OF INTEREST CONTRACTS~~**~~§ 32.070 DEFINITION.~~**

OFFICER means any elected or appointed official or member of any board or commission of the city. *Insert this in "Definitions" in front of the book – Sec. 10.05*

~~(2002 Code, § 2-261)~~

~~Statutory reference:~~

~~—"Officer" defined, see Neb. RS 49-14,103.01~~

~~§ 32.071 PROHIBITED.~~

~~(A) (1) Except as provided in Neb. RS 49-1499.01 and 70-624.04, no officer of the city shall be permitted to benefit from any contract to which the city is a party.~~

~~———— (2) No officer shall be interested in any contract to perform any work for or furnish any material to any contractor or subcontractor in conjunction with a contract between such contractor or subcontractor and the city.~~

~~———— (B) The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment with actual knowledge of the prohibited conflict.~~

~~———— (C) An action to have a contract declared void under this section may be brought by the city or by any resident and must be brought within one year after the contract is signed or assigned. The prohibition in this section shall apply only when the officer knows or could reasonably be expected to know that his or her interest will be affected by his or her official action, or by the action of the governmental body, department or agency which he or she serves.~~

~~(2002 Code, § 2-262)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 49-14,103.01~~

~~§ 32.072 EXCEPTIONS.~~

~~———— (A) The provisions of this subchapter shall not apply if the interested officer:~~

~~———— (1) Reveals in writing to the governmental body responsible for approving the contract the nature and extent of his or her interest prior to official consideration of the contract;~~

~~———— (2) Does not participate in the consideration or discussion of the contract, other than to reveal his or her interest;~~

~~———— (3) Does not attempt to influence other officers or employees in any way relating to the contract;~~

~~———— (4) Does not vote on the matter of granting the contract;~~

~~———— (5) Removes himself or herself during the consideration of, discussion of and vote on the contract; and/or~~

~~———— (6) Does not act, directly or indirectly, for the city as to inspection, operation, administration or performance under the contract in which he or she has an interest.~~

~~———— (B) The receiving of deposits, cashing of checks and buying and selling of warrants and bonds of indebtedness of the city by a financial institution shall not be considered a contract under the provisions of this subchapter. The ownership of less than 1% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this subchapter.~~

~~(2002 Code, § 2-263)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 49-14,103.01~~

§ 32.073 COMPETITIVE BIDDING.

Notwithstanding any other provision of this subchapter, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall represent the best alternative available to the city in terms of, but not limited to, price and quality of the property or services.

(2002 Code, § 2-264)

Statutory reference:

Related provisions, see Neb. RS 49-14,103.01 Neb. RS 14-102

§ 32.074 RECORDS.

(A) The City Clerk shall maintain, separately from other records, a ledger containing the information ~~listed in §§ 32.070 through 32.073 of this chapter~~ about every contract entered into by the city in which an officer of the city has a direct or indirect interest as specified in such sections and for which a disclosure is made as provided in those sections. Any officer who has a direct or indirect interest, as provided in those sections, in a contract entered into with the city, shall provide the City Clerk with:

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in question;
- (3) Date the contract was approved by the city;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

(B) The information supplied relative to the contract shall be provided to the City Clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the City Clerk shall be available for public inspection during normal working hours in the office of the City Clerk **for a period of five years from the date of the officer's last day in office.**

(2002 Code, § 2-265)

Statutory reference:

Related provisions, see Neb. RS 49-14,103.02

§ 32.075 OPEN ACCOUNT.

~~An open account established for the benefit of the city, with a business in which an officer has an interest, shall be deemed a contract pursuant to the provisions of §§ 32.070 through 32.073 of this chapter. The statement required to be filed pursuant to § 32.074 of this chapter shall be filed within ten days after such account is opened.~~

(2002 Code, § 2-266)

Statutory reference:

Related provisions, see Neb. RS 49-14,103,03 Mirror State Statute please

1) 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 sections 32.___ to 32.___.

(2) The statement required to be filed by section 32.___ shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for such governing body shall maintain a running account of amounts purchased on the open account.

(3) Purchases made from petty cash or a petty cash fund shall not be subject to sections 32.___ to 32.___.

RETIREMENT AND PENSION

§ 32.090 POLICE DEPARTMENT.

The city shall establish and maintain a Police Officers Retirement System Fund pursuant to Neb. RS 16-1001 et seq. In order to fund this retirement plan, the Council may make a levy in addition to the multiple levies or the all-purpose and exclusive levy which the city is authorized by law. ~~and for the purposes of Neb. RS 77-3424(2), the new program shall include all contributions of the city to the Retirement System Fund established in this section.~~

(2002 Code, § 2-291)

Statutory reference:

Police officers retirement, see Neb. RS 16-1001 et seq.

§ 32.091 POLICE DEPARTMENT RETIREMENT COMMITTEE.

(A) The Retirement Committee shall supervise the general operation of the Police Officers Retirement System Fund. The Retirement Committee shall consist of six members, of which four members shall be elected by the active paid police officers of the city. Two members shall be designated by the Council. The members who are not participants in the Retirement System Fund shall have a general knowledge of retirement plans. Members of the Council, active members of the Police Department and members of the general public may serve on the Retirement Committee. The Committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as the predecessor. Members of the Retirement Committee shall receive no salary and shall not be compensated for expenses.

(B) The funds of the Retirement System Fund shall be invested by the Retirement Committee. The city or the Committee shall contract with an insurance company, trust company or other financial institution, including, but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit unions or Farmers Home Administration or Veterans' Administration approved lenders. Such funds shall be invested pursuant to the policies established by the State Investment Council.

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(C) It shall be the duty of the Retirement Committee to:

(1) Provide each employee with a summary of plan eligibility requirements and benefit provisions;

(2) Provide, within 30 days after a written request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive;

(3) Make available for review an annual report of the system's operation describing both the amount of contributions to the system from both employee and employer sources and an identification of the total assets of the Retirement System Fund; and

(4) Have an analysis made of the investment return that has been achieved on the assets of the Retirement System Fund administered by the committee. Such analysis shall be prepared each five years. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

(2002 Code, § 2-292)

Statutory reference:

Related provisions, see Neb. RS 16-1014 through 16-1017

CHAPTER 33: CIVIL SERVICE

Section

General Provisions

- ~~33.01~~ ~~Positions covered~~
- ~~33.02~~ ~~Position creation and elimination~~
- ~~33.03~~ ~~Establishment of salaries and compensation~~
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Appointments, Promotions and Disciplinary Actions

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Civil Service Commission

- 33.40 Creation
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GENERAL PROVISIONS**~~§ 33.01 POSITIONS COVERED.~~**

~~— This chapter shall apply only to all present full-time police officers of the city, including any future appointees to such full-time positions. *FULL-TIME POLICE OFFICERS* shall mean police officers in positions which require certification by the state law enforcement training center, who have the power of arrest, who are paid regularly by the city, and for whom law enforcement is a full-time career, but shall not include clerical, custodial or maintenance personnel.~~

~~(2002 Code, § 26-1)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1828~~

~~§ 33.02 POSITION CREATION AND ELIMINATION.~~

~~— All positions subject to this chapter shall be created or eliminated by the Council.~~

~~(2002 Code, § 26-2)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1836~~

~~§ 33.03 ESTABLISHMENT OF SALARIES AND COMPENSATION.~~

~~— This chapter shall not be construed to infringe upon the power and authority of the Council to establish salaries and compensation of all employees within the compensation schedule or ranges established by the Council for positions.~~

~~(2002 Code, § 26-3)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1836~~

~~§ 33.04 PAYMENT OF COMPENSATION FOR SERVICES.~~

~~— No Treasurer, Auditor, Comptroller or other officer or employee of the city subject to this chapter shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services to any person subject to the jurisdiction and scope of this chapter, unless the person to receive such salary, wage or other compensation has been appointed or employed in compliance with this chapter.~~

~~(2002 Code, § 26-4)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1837~~

~~§ 33.05 CITY'S DUTY TO COMMISSION.~~

~~— It shall be the duty of the city to appropriate each fiscal year, from the general funds of the~~

~~city, a sum of money sufficient to pay the necessary expenses involved in carrying out the purposes of this chapter, including, but not limited to, reasonable attorney's fees for any special counsel appointed by the Civil Service Commission when the City Attorney is not authorized by the City Administrator to represent the Commission. The City Administrator may establish the hourly or monthly rate of pay of such special counsel. The city shall afford the Commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or, in any way, appertaining to any and all positions and employments subject to civil service and shall produce such books, papers, documents and accounts. All city officers and employees shall attend and testify whenever required to do so by the Commission, the accused or the City Administrator.~~

~~(2002 Code, § 26-5)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-1834, 19-1843, 19-1846~~

~~§ 33.06 POLITICAL FUND CONTRIBUTION AND POLITICAL SERVICE.~~

~~No person holding any position subject to civil service shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever. No person shall be removed, reduced in position or salary or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten to do so for giving, withholding or neglecting to make any contribution of money, services or any valuable thing for any political purposes.~~

~~(2002 Code, § 26-6)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-1841~~

~~§ 33.07 OBSTRUCTING EXAMINATIONS.~~

~~No Commissioner or any other person shall, by himself or herself or in cooperation with one or more persons:~~

~~(A) Defeat, deceive or obstruct any person in respect to the right of examination according to the rules and regulations made pursuant to this chapter;~~

~~(B) Falsely mark, grade, estimate or report upon the examination and standing of any person examined or certified in accordance with such act or aid in so doing;~~

~~(C) Make any false representation concerning the examination or concerning the person examined;~~

~~— (D) Furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined or certified to be examined or certified; or~~

~~— (E) Persuade any other person to permit or aid in any manner any other person to impersonate him or her in connection with any examination, application or request to be so examined.~~

~~(2002 Code, § 26-7)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1840~~

~~§ 33.08 LAW ENFORCEMENT RESERVE OFFICER; BOND.~~

~~— No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of \$2,000, payable to the city, has been filed with the City Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the Council, and bonding all such officers of the Council has been filed. Such bonds shall be subject to the provisions of Neb. RS 11-101 et seq.~~

~~(2002 Code, § 50-31)~~

~~Statutory reference:~~

~~— Authority to appoint a law enforcement reserve force, see Neb. RS 81-1438~~

~~APPOINTMENTS, PROMOTIONS AND DISCIPLINARY ACTIONS~~

~~§ 33.20 APPOINTMENTS AND PROMOTIONS.~~

~~— All appointments to and promotions in the Police Department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation by the Civil Service Commission.~~

~~(2002 Code, § 26-41)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1829~~

~~§ 33.21 REQUIREMENTS FOR CIVIL SERVICE POSITION APPLICANTS.~~

~~— An applicant for a position of any kind under civil service shall be able to read and write the English language, meet the minimum job qualifications of the position as established by the City Administrator and be of good moral character. An applicant shall be required to disclose past employment history and criminal record, if any, and submit a full set of his or her fingerprints and a written statement authorizing the city to forward the fingerprints for identification. Prior to certifying to the City Administrator the name of the persons eligible for the position or positions, the Civil Service Commission shall validate the qualifications of such persons. (2002 Code, § 26-42)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1831~~

~~§ 33.22 FILLING VACANT POSITIONS.~~

~~— (A) Considerations. If the City Administrator fills a vacancy in a position subject to this chapter, he or she shall consider factors, including, but not limited to:~~

~~— (1) The multiple job skills recently or currently being performed by the applicant which are necessary for the position;~~

~~— (2) The knowledge, skills and abilities of the applicant which are necessary for the position;~~

~~— (3) The performance appraisals of any applicant who is already employed in the Department, including any recent or pending disciplinary actions involving the employee;~~

~~— (4) The employment policies and staffing needs of the Department, together with related contracts, ordinances and statutes;~~

~~— (5) Required federal, state or local certifications or licenses necessary for the position; and~~

~~— (6) The qualifications of the applicants who are already employed in the Department and have successfully completed all parts of the examination for the position. No person shall be reinstated in or transferred, suspended or discharged from any such position or employment contrary to this chapter.~~

~~— (B) Procedure for filling vacant positions. Whenever a position subject to this chapter becomes vacant, the City Administrator shall make requisition upon the Civil Service Commission for the names and addresses of the persons eligible for appointment and may decline to fill such vacancy for an indefinite period. If the Commission certifies fewer than three names for each vacancy to the City Administrator, the City Administrator may appoint one of such persons to fill the vacancy, may decline to fill the vacancy or may order that another examination be held by the Commission.~~

~~— (C) Temporary appointments. If a vacancy occurs and there is no eligible list for the position or if the Commission has not certified persons from the eligible list, a temporary appointment~~

~~may be made by the City Administrator. Such temporary appointment shall not continue for a period longer than four months. No person shall receive more than one temporary appointment or serve more than four months as a temporary appointee in any one fiscal year.~~

~~(2002 Code, § 26-43)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1829, 19-1835~~

~~§ 33.23 PROBATIONARY PERIOD.~~

~~— To enable the City Administrator to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the civil service shall be deemed complete until after the expiration of a period of not less than six months, nor more than one year, after certification by the state law enforcement training center for police officers, as may be provided in the rules of the Civil Service Commission, during which time the City Administrator may terminate the employment of the person appointed if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the City Administrator deems such person unfit or unsatisfactory for service in the Department. The City Administrator may appoint one of the other persons certified by the Commission; and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment or promotion for the probationary period provided; and then the appointment, employment or promotion shall be complete.~~

~~(2002 Code, § 26-44)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1835~~

~~§ 33.24 DISCIPLINARY ACTIONS.~~

~~— (A) Tenure of employment. The tenure of a person holding a position of employment subject to this chapter shall be only during good behavior.~~

~~— (B) Causes for disciplinary action. Any such person may be removed or discharged, suspended with or without pay, demoted, reduced in rank or other privileges, except pension benefits, for any of the following reasons:~~

~~— (1) Incompetency, inefficiency or inattention to or dereliction of duty;~~

~~— (2) Dishonesty, prejudicial conduct, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, any act of omission or Commission tending to injure the public service, any willful failure on the part of the employee to properly conduct himself or herself, or any willful violation of this chapter or the rules and regulations adopted pursuant to this chapter;~~

~~— (3) Mental or physical unfitness for the position which the employee holds;~~

~~— (4) Drunkenness or the use of intoxicating liquors, narcotics or any other habit-forming drug, liquid or preparation to such an extent that the use interferes with the efficiency of mental~~

~~or physical fitness of the employee or precludes the employee from properly performing the functions and duties of his or her position;~~

~~===== (5) Conviction of a felony or misdemeanor tending to injure the employee's ability to effectively perform the duties of his or her position; or~~

~~===== (6) Any other act or failure to act which, in the judgment of the Civil Service Commissioners, is sufficient to justify the offender to be an unsuitable and unfit person to be employed in the public service.~~

~~(2002 Code, § 26-45)~~

~~Statutory reference:~~

~~===== Related provisions, see Neb. RS 19-1832~~

~~§ 33.25 DISCIPLINARY ACTION PROCEDURE.~~

~~===== (A) No employee in the civil service who shall have been permanently appointed or inducted into the civil service shall be removed, suspended, demoted or discharged except for cause, and then only upon the written accusation of the Police Chief, City Administrator or any citizen or taxpayer.~~

~~===== (B) The written accusation will set forth the alleged misconduct, charges or ground for investigation against the employee. The written accusation shall be filed by the complainant with the Secretary of the Civil Service Commission, who shall cause a copy of such written accusation to be delivered within 24 hours after the filing to the Police Chief, to the City Administrator, and to the employee personally or by certified mail.~~

~~===== (C) The Police Chief shall have the authority to immediately suspend, with pay, an employee against whom such written accusation has been filed, pending the confirmation of the suspension or a decision of the City Administrator to reinstate the employee, with or without pay.~~

~~===== (D) Prior to any decision of the City Administrator to reinstate the employee or remove, demote, discharge or suspend the employee, with or without pay, the Police Chief shall, within a reasonable period of time, investigate the alleged misconduct, charges or grounds against the employee and explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present his or her version of the circumstances which resulted in the filing of a written accusation. If the Police Chief's investigation reveals other misconduct, charges or grounds, the Chief shall amend the written accusation to include the other misconduct, charges or grounds by filing an amendment to the written accusation with the Secretary of the Commission. If a Police Chief is being disciplined, the City Administrator shall follow the same procedures as are followed by the Police Chief in disciplining employees under this chapter. Upon completion of this procedure within a reasonable period of time, the Police Chief shall recommend in writing to the City Administrator that the alleged misconduct, charges or grounds set forth in the written accusation be deemed to:~~

~~===== (1) Be without merit;~~

~~———— (2) Not warrant disciplinary action;~~

~~———— (3) Warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or~~

~~———— (4) Warrant removal, demotion, discharge or suspension, with or without pay.~~

~~———— (E) Within ten calendar days after receiving the written recommendation of the Police Chief, the City Administrator shall decide to accept the recommendation of the Police Chief, or shall decide that the alleged misconduct, charges or grounds for investigation against the employee set forth in the written accusation to:~~

~~———— (1) Be without merit;~~

~~———— (2) Not warrant disciplinary action;~~

~~———— (3) Warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or~~

~~———— (4) Warrant removal, demotion, discharge or suspension, with or without pay. Any employee so removed, suspended, demoted or discharged may, within ten calendar days after receiving written notice of the City Administrator's decision, file a written demand for an investigation and public hearing by the Commission. The employee shall file the request for the hearing with the Secretary of the Commission and simultaneously send a copy of the request to the City Administrator. The failure to file such a request with the Secretary of the Commission within ten calendar days of the receipt of notice of the action by the City Administrator shall constitute a waiver of the employee's right to review by the Commission, and the City Administrator's decision shall become final.~~

~~———— (F) Within seven calendar days after receipt of the employee's notice of appeal, the City Administrator shall cause to be mailed or delivered the following notice to the employee and Secretary of the Commission a notice containing:~~

~~———— (1) A statement of the charges;~~

~~———— (2) The names of witnesses who will be called on behalf of the City Administrator and a general statement of the nature of their testimony; and~~

~~———— (3) Copies of the documents to be offered in support of the charges.~~

~~———— (G) Within nine calendar days after the filing of the written demand for an investigation and public hearing by the Commission, the employee shall mail or deliver copies of the following upon the City Administrator and the Commission:~~

~~———— (1) A response to the statement of the charges;~~

~~———— (2) The names of witnesses who will be called on behalf of the employee and a general~~

~~statement of the nature of their testimony; and~~

~~———— (3) Copies of the documents to be introduced.~~

~~———— (H) Upon receipt of a written demand for an investigation and public hearing, the Commission shall conduct an investigation. The Commission may be represented in such investigation and public hearing by the City Attorney if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for any such investigation and hearing. Investigation shall consist solely of a review of the written submissions of the City Administrator and employee to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission, ultimately to determine whether the City Administrator acted in good faith for the cause. *GOOD FAITH FOR CAUSE* shall mean that the action was not arbitrary or capricious and was not made for political or religious reasons.~~

~~(2002 Code, § 26-46)~~

~~Statutory reference:~~

~~———— Related provisions, see *Neb. RS 19-1833*~~

~~§ 33.26 COMMISSION'S PUBLIC HEARING.~~

~~———— (A) The Civil Service Commission shall schedule a public hearing to be held after the investigation and no less than ten, nor more than 20, calendar days from the date of filing of the employee's written demand for an investigation. The Commission shall notify the City Administrator and employee in writing at least five calendar days prior to the date of the hearing of the date, time and place of hearing.~~

~~———— (B) The parties may, by agreement and stipulation, continue the date of hearing to be held at a time more than 20 calendar days from the date of filing of the employee's written demand for an investigation.~~

~~———— (C) The parties shall have the right to amend their filings with the Commission; provided, reasonable notice is provided to the other party.~~

~~———— (D) The City Administrator shall be permitted to appear in person and by counsel and to present the case. The City Administrator may present evidence by testimony and documents and shall be permitted to cross-examine the employee's witnesses. At the hearing, the employee shall be permitted to appear in person and by counsel and to represent the defense. The employee may present evidence by testimony and documents and shall be permitted to cross-examine the witnesses called by the City Administrator.~~

~~———— (E) The Commission may affirm the action taken by the City Administrator if such action is supported by a preponderance of the evidence. If the Commission finds that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or reemployment of such employee in the position or employment from which such employee was removed, suspended,~~

~~demoted or discharged, which reinstatement shall, if the Commission, in its discretion, so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge.~~

~~—(F) After the hearing, in lieu of affirming the removal, suspension, demotion or discharge, the Commission may modify the order of removal, suspension, demotion or discharge by directing a suspension, with or without pay, for a given period, either decreasing or increasing the written recommendation of the City Administrator, and the subsequent restoration to duty or demotion in position or pay. No later than ten calendar days after the hearing, the Commission shall certify its findings in writing to the employee, and to the City Administrator, who shall enforce them.~~

~~(2002 Code, § 26-47)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-1833~~

~~§ 33.27 LEAVES OF ABSENCE.~~

~~—A leave of absence with or without pay may be granted by the City Administrator to any person under civil service. The City Administrator shall give notice of such leave to the Civil Service Commission. All appointments for temporary employment resulting from such leaves of absence shall be made from the eligible list, if any, of the civil service.~~

~~(2002 Code, § 26-48)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-1838~~

~~§ 33.28 REDUCTION IN FORCE POLICY.~~

~~—(A) Establishment. The Council in establishing a reduction in force policy shall consider recommendations from the Civil Service Commission, but shall not be bound by them. Prior to the adoption of a reduction in force policy, the Council shall, after giving reasonable notice to each police officer by first class mail, conduct a public hearing.~~

~~—(B) Factors. The Council shall adopt a reduction in force policy which shall consider factors including, but not limited to:~~

~~—(1) The multiple job skills recently or currently being performed by the employee;~~

~~—(2) The knowledge, skills and abilities of the employee;~~

~~—(3) The performance appraisal of the employee, including any recent or pending disciplinary actions involving the employee;~~

~~—(4) The employment policies and staffing needs of the Department, together with related contracts, ordinances and statutes;~~

~~———— (5) Required federal, state or local certifications or licenses; and~~

~~———— (6) Seniority;~~

~~(2002 Code, § 26-49)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-1830~~

CIVIL SERVICE COMMISSION

§ 33.40 01 CREATED.

~~There~~ **The City of Wayne has is created in the city** a Civil Service Commission which shall have ~~three~~ **five** members who shall each be a citizen of the United States, a resident of the city for at least three years immediately preceding such appointment and an elector of the county wherein such person resides. **The Civil Service Commission shall abide by Neb. RS 19-1825 et seq.**

~~(2002 Code, § 26-81)~~

~~Statutory reference:~~

~~Authority to create a Civil Service Commission, see Neb. RS 19-1827~~

~~§ 33.41 APPOINTMENT OF MEMBERS.~~

~~———— The members of the Civil Service Commission shall be appointed by the Mayor, by and with a majority vote of the Council. At the time of any appointment, not more than two members of the Civil Service Commission, including the ones to be appointed, shall be registered electors of the same political party.~~

~~(2002 Code, § 26-82) (Ord. 99-15, passed 11-30-1999)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-1827~~

~~§ 33.42 MEMBERS' TERMS OF OFFICE.~~

~~———— The first persons appointed to the Civil Service Commission shall serve staggered terms.~~

~~(2002 Code, § 26-83)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-1827~~

~~§ 33.43 REMOVAL FROM OFFICE.~~

~~— Any member of the Civil Service Commission may be removed from office for incompetency, dereliction of duty, malfeasance in office or other good cause by the Mayor with the approval of the Council; except that, no member of the Civil Service Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the Council.~~

~~(2002 Code, § 26-84) (Ord. 99-15, passed 11-30-1999)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1827~~

~~§ 33.44 COMPENSATION OF MEMBERS.~~

~~— Members of the Civil Service Commission shall serve without compensation.~~

~~(2002 Code, § 26-85)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1827~~

~~§ 33.45 MEETINGS.~~

~~— The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties.~~

~~(2002 Code, § 26-86)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1830~~

~~§ 33.46 CHAIRPERSON.~~

~~— The Civil Service Commission shall annually elect one of its members as Chairperson.~~

~~(2002 Code, § 26-87)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1830~~

~~§ 33.47 SECRETARY AND CHIEF EXAMINER.~~

~~— The Civil Service Commission shall appoint a Secretary and a Chief Examiner, who shall keep the records of the Commission, preserve all reports made to it and keep a record of all examinations held under its direction and perform such other duties as the Commission may prescribe. The Commission may merge the positions of Secretary and Chief Examiner and appoint one person to perform the duties of both positions. The Commission shall appoint the city's Personnel Officer as Secretary and Chief Examiner, if requested to do so by the City Administrator. The Secretary and Chief Examiner shall be subject to suspension or discharge upon the vote of a majority of the appointed members of the Commission.~~

~~(2002 Code, § 26-88)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1830~~

~~§ 33.48 QUORUM.~~

~~— Two members of the Civil Service Commission shall constitute a quorum for the transaction of business.~~

~~(2002 Code, § 26-89)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1827~~

~~§ 33.49 POWERS AND DUTIES.~~

~~— (A) The Civil Service Commission shall adopt and promulgate procedural rules and regulations which shall provide in detail the manner in which examinations may be held and shall provide for any other matters assigned to it by the City Administrator. At least one copy of the rules and regulations shall be made available for examination and reproduction by members of the public. One copy of the rules and regulations shall be given to each full-time police officer.~~

~~— (B) The Commission shall provide that all tests shall be practical and consist only of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include, but are not limited to, tests of physical fitness and of manual skill and psychological testing.~~

~~— (C) The Commission shall provide, by the rules and regulations, for a credit of 10% in favor of all applicants for an appointment to an entry-level position, as defined by the City Administrator under civil service, who in time of war or in any expedition of the armed forces of the United States have served in and been honorably discharged from the armed forces of the United States and who have equaled or exceeded the minimum qualifying standards established by the City Administrator.~~

~~— (D) The Commission may conduct an investigation concerning and report upon all matters regarding the enforcement and effect of this chapter and the rules and regulations prescribed under this chapter.~~

~~—(E) The Commission may inspect all institutions, departments, positions and employments affected by this chapter to determine whether it and all such rules and regulations are being obeyed. Such investigations may be conducted by the Commission or by any Commissioner designated by the Commission for that purpose. The Commission shall also make a like investigation on the written petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth, in concise language, the necessity for such an investigation. The Commission may be represented in such investigation by the City Attorney if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission in any such investigation. In the course of such an investigation, the Commission, designated Commissioner or Chief Examiner shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents and accounts pertaining to the investigation, and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts of the state. The oaths administered and subpoenas issued shall have the same force and effect as the oaths administered by a District Judge in a judicial capacity and subpoenas issued by the district courts of the state. The failure of any person so subpoenaed to comply shall be deemed a violation of this chapter and shall be punishable as such. No investigation shall be made pursuant to this section if there is a written accusation concerning the same subject matter against a person in the civil service. Such accusation shall be handled pursuant to § 33.24 of this chapter.~~

~~—(F) The Commission shall provide that all hearings and investigations before the Commission, designated Commissioner or Chief Examiner shall be governed by this chapter and the rules of practice and procedure to be adopted by the Commission. In the conduct of such hearings and investigations, they shall not be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission; except that, no order, decision, rule or regulation made by any designated Commissioner conducting any hearing or investigation alone shall be of any force or effect unless it is concurred in by a majority of the appointed members of the Commission, including the vote of any Commissioner making the investigation.~~

~~—(G) The Commission shall establish and maintain a roster of officers and employees.~~

~~—(H) The Commission shall provide for, establish and hold competitive tests to determine the relative qualifications of persons who seek employment in any position and, as a result, establish eligible lists for the various positions.~~

~~—(I) The Commission shall make recommendations concerning a reduction in force policy to the City Administrator.~~

~~—(J) The Commission shall keep such records as may be necessary for the proper administration of this chapter.~~

~~—(K) The Commission, upon request of the City Administrator, shall establish and maintain a list of names and addresses, for a period of time established by the City Administrator, of those eligible for appointment to or promotion within the Police Department.~~

~~— (L) The Commission, upon request of the City Administrator, shall certify the names of the persons who are the three highest on the eligible list, following the most recent examination, and whose qualifications have been validated by the Commission for a vacant position.~~

~~— (M) The Commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and the rules of the Commission. The Commission shall be represented in such suits and all investigations pursuant to this chapter by the City Attorney, if authorized by the City Administrator. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by it in any particular case.~~

~~(2002 Code, § 26-90)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-1830, 19-1833, 19-1835~~

CHAPTER 34: CITY ORGANIZATIONS

Section

- 34.01 **Board of Adjustment – Move to Zoning Section**
- 34.02 Airport Authority
- 34.03 Board of Health
- 34.04 Housing Authority
- 34.05 **Planning Commission – Move to Zoning Section**
- 34.06 Recreation-Leisure Services Commission
- 34.07 **Board of Appeals – Move to Zoning Section**

§ 34.01 BOARD OF ADJUSTMENT.

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The Council shall appoint the Board of Adjustment, which shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three years unless reappointed and shall be removable only for good and sufficient cause by the Council upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Council, to give a bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. One member of the Board of Adjustment shall be at the same time a member of the Planning Commission at all times. Upon the loss of membership on the Planning Commission, the member shall also lose his or her membership on the Board of Adjustment. After 9-9-1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area, The Board shall organize at its first meeting in June of each year and elect from its membership a Chair and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings and to file them at the office of the City Clerk for examination at any reasonable time by the public. The Board of Adjustment shall be funded out of the General Fund by the Council. The Board of Adjustment shall adopt rules in accordance with the provisions of a duly adopted zoning ordinance. Meetings of the Board shall be held at such times as the Council may designate, or at such other times as the Chair may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by a city official based on any zoning ordinance of the city; to hear and decide in accordance with the provisions of any zoning ordinance, requests for interpretation of any map; and authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the ordinance, would result in exceptional difficulties and undue hardship. No variance shall be granted if the undue hardship appears to affect the property in the district generally, or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable, the formulation of a general regulation to be adopted by the Council as an ordinance. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination made by a city official on any matter which was governed by any city zoning ordinance. The Board shall be responsible for making such reports and performing such other duties as the Council may designate. No member of the Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chair and Secretary of the Board.

(2002 Code, § 2-341)

Statutory reference:

Authority to provide for a board of adjustment, see Neb. RS 19-907

Related provisions, see Neb. RS 19-908 through 19-910

§ 34.02 AIRPORT AUTHORITY.

(A) There is created for the city an Airport Authority, which shall be managed and controlled by a board. The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or acquired by the city for the purpose of aviation operation, air navigation and air safety operation. The Board is a body corporate and politic, constituting a public corporation and an

agency of the city. The Board shall consist of five members to be selected as follows.

(1) The Mayor, with the approval of the Council, shall appoint one member who shall serve until his or her successor, elected at the first general city election following such appointment, shall qualify and take office.

(2) The Mayor, with the approval of the Council, shall appoint two members who shall serve until their successors, elected at the second general city election following such appointment, shall qualify and take office.

(3) The Mayor, with the approval of the Council, shall appoint two members who shall serve until their successors, elected at the third general city election following such appointment, shall qualify and take office.

(B) Upon the expiration of the terms of such appointed officers, members of the Board shall be nominated and elected in a manner provided by law for the election of officers of the city and shall take office at the same time as the officers of the city.

(C) Members of the Board shall be residents of the city and, except for members initially appointed, shall serve for a term of six years.

(D) Any vacancy on the Board, resulting other than from expiration of a term of office, shall be filled by temporary appointment by the Mayor, with the approval of the Council, until a successor can be elected at the next general city election, to serve the unexpired portion, if any, of the term. A member of the Board may be removed from office for incompetence, neglect of duty or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the Council, in the District Court of the county.

(E) The Airport Authority and the Airport Authority Board shall have such other powers and duties as may be prescribed by law.

(2002 Code, § 2-361)

Statutory reference:

City airport authorities, see Neb. RS 3-501 et seq.

Related provisions, see Neb. RS 3-502

§ 34.03 BOARD OF HEALTH.

(A) The Council shall appoint a Board of Health, which shall consist of five members. The members of the Board shall include the Mayor, who shall serve as Chair; the Police Chief, who shall serve as Secretary and Quarantine Officer; a physician who shall serve as the medical advisor; the President of the Council; and one other member. The members of the Board shall serve, without compensation, a one-year term of office, unless reappointed, and shall reorganize at the first meeting in June of each year. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the City Clerk, where they shall be available for public inspection at any reasonable time.

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(B) The Board shall be funded by the Council out of the General Fund.

(C) A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Council may designate. Special meetings may be held upon the call of the Chair or any two members of the Board.

(D) It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the city. Included in the duties of the Board shall be to enforce the rules and regulations, and to provide fines and punishments for any violations of such rules and regulations. It may regulate, suppress and prevent the occurrence of nuisances and shall actively enforce all laws of the state and ordinances of the city relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the Council may designate. No member of the Board shall hold more than one Board position.

(2002 Code, § 2-381)

Statutory reference:

Authority to create a board of health, see Neb. RS 16-238

§ 34.04 HOUSING AUTHORITY.

(A) (1) The Council shall appoint five persons who shall constitute the Housing Authority, and such persons shall be called the Commissioners. One Commissioner shall be appointed each year. Each Commissioner shall serve a five-year term of office or until his or her successor is duly appointed. All vacancies shall be filled for the unexpired terms. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk, and such certificate shall be conclusive evidence of the proper appointment of such Commissioner. A Commissioner shall receive no compensation for his or her services, but he or she shall be entitled to the necessary expenses; including travel expenses, incurred in the discharge of his or her duties. Three Commissioners shall constitute a quorum of the authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the authority upon the vote of the majority of the Commissioners present unless in any case the bylaws of the authority shall require a larger number.

(2) The Commissioners shall elect a Chair and Vice-Chair from among the Commissioners and shall have the power to employ an executive director, who shall serve as ex-officio Secretary of the Authority. The Authority may also employ legal counsel, or it may call upon the chief law officer of the city, for such services as it may require. It may employ technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.

(3) During his or her tenure, and for one year thereafter, no Commissioner, officer or employee of the Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such Commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as Commissioner, officer or employee, he or she shall immediately disclose his or her

interest in writing to the Authority; and such disclosure shall be entered upon the minutes of the Authority, and he or she shall not participate in any action by the authority relating to the property or contract in which he or she has any such interest.

(4) Nothing in this division (A) shall apply to the acquisition of any interest in notes or bonds of the authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency. The Mayor may remove a Commissioner for neglect of duty or misconduct in office in the manner prescribed in this division (A). The Mayor shall send a notice of removal to such Commissioner, which notice shall contain a statement containing the charges against him or her. Unless within ten days from the receipt of such notice such Commissioner files with the City Clerk a request for a hearing before the Council, the Commissioner shall be deemed removed from office. If a request for a hearing is filed with the City Clerk, the Council shall hold a hearing, at which the Commissioner shall have the right to appear in person or by counsel; and the Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the Commissioner shall continue to hold his or her position.

(B) The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the Council on all such information.

(Code 1974, § 2-106)

Statutory reference:

*Related provisions, see Neb. RS ~~71-1524 through 71-1526~~ **Neb. RS 71-1574 et seq.***

State Housing Authorities Law, see Neb. RS 71-1518 et seq.

§ 34.05 PLANNING COMMISSION.

(A) *Members.* The Planning Commission shall consist of nine members who shall be appointed by the Mayor, by and with the approval of a majority vote of the Council. Two of such members may be residents of the area over which the city is authorized to exercise extraterritorial zoning and subdivision regulations. All members of the Commission shall serve as such without compensation and shall hold no other office, except when appointed to serve on the Board of Adjustment. The term of each member shall be three years, and three members shall be appointed or reappointed each year. All members shall hold office until their successors are appointed. All members may, after a public hearing before the Council, be removed by the Mayor, by and with the consent of a majority vote of the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor.

(2002 Code, § 2-441)

(B) *Organization; meeting; rules; records.*

(1) The Planning Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each month except that the Council may require the Commission to meet more frequently and the

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Chairperson of the Commission may call for a meeting when necessary to deal with pending business, and it shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which records shall be of public record and filed with the City Clerk. All actions by the Commission shall be subject to the review and supervision of the Council. The Commission shall be responsible for making such reports and performing such other duties as the Council may designate.

(2) The Council may provide the funds, equipment and accommodations necessary for the work of the Commission; but the expenditures for the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the Council; and no expenditures or agreements for expenditures shall be valid in excess of such amounts.

(2002 Code, § 2-442)

(C) *Purpose and duties.*

(1) It shall be the function and duty of the Planning Commission to make and adopt plans for the physical development of the city, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the city, including a Comprehensive Development Plan, to prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes and zoning ordinances in cooperation with other interested city departments and consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and implement its programs. The Commission shall have the power to conduct studies, make surveys, make preliminary reports on its findings and hold public hearings before submitting final reports.

(2) The city shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory or zoning until it has received the recommendation of the Planning Commission. A recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the city has designated, by ordinance, an agent pursuant to Neb. RS 19-916.

(3) The Commission may, with the consent of the Council, in its own name:

- (a) Make and enter into contracts with public or private bodies;
- (b) Receive contributions, bequests or gifts, or grant funds from public or private sources;
- (c) Expend the funds appropriated to it by the city;
- (d) Employ agents and employees; and
- (e) Acquire, hold and dispose of property.

(2002 Code, § 2-443)

(Ord. 2009-8, passed 4-21-2009)

Statutory reference:

Authority to create a planning Commission, see Neb. RS 19-925

Related provisions, see Neb. RS 19-926 through 19-929

§ 34.06 RECREATION-LEISURE SERVICES COMMISSION.

(A) A Recreation-Leisure Services Commission is created to advise the Council in regard to recreation, leisure services and park facilities and programs.

(B) The Commission shall consist of eight members, of which five will be required to be citizens of the city. Commission members shall be appointed by the Mayor with the approval of the Council and shall serve without compensation. The first Commission members shall serve staggered terms. Thereafter, all members shall be appointed for three-year terms. The Commission shall elect a Chair and a Vice-Chair. The Commission shall meet at such times as determined by the Commission and shall annually elect its Chair and Vice-Chair during the May meeting. The City Administrator or designee of the City Administrator shall serve as an ex-officio member and Secretary of the Commission.

(C) The Commission shall have the duty and responsibility of working with the City Administrator and shall advise the City Administrator as to plans for recreation, leisure services and park programs and facilities. The Commission shall interpret the role of recreation, parks and leisure services to the general public and feed back the reactions and wishes of the public to the City Administrator. The Commission shall review updates and revisions of these plans as required. The Commission shall also review and make recommendations to the Council on rates, fees and charges applicable to recreation, leisure services, park facilities and programs.

(D) The Commission shall provide written reports to the Council of its activities as it deems advisable or upon the request of the City Administrator or the Council.

(E) The Commission shall have the authority of recommending to the Council rules and regulations for the use and conduct of recreation and leisure services. Any rules and regulations so adopted shall be posted on the affected facility, or otherwise publicized in a manner to provide adequate notice to the using public.

(2002 Code, § 2-471) (Ord. 2001-21, passed 12-18-2001)

§ 34.07 BOARD OF APPEALS.

(A) *Application for appeal.* Any person directly affected by a decision of the Code Official or a notice or order issued under the International Property Maintenance Code, the International Building Code, International Residential, Plumbing, Mechanical and Energy Conservation Codes and Flood Plain Regulation Code shall have the right to appeal to the Board of Appeals; provided that, a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally

adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(B) *Board.*

(1) *Membership of Board.* The Board of Appeals shall consist of a minimum of six members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The Code Official shall be an ex-officio member, but shall have no vote on any matter before the Board. The Board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

(2) *Alternate members.* The chief appointing authority shall appoint two or more alternate members who shall be called by the Board Chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership.

(3) *Chairperson.* The Board shall annually select one of its members to serve as Chairperson.

(4) *Disqualification of member.* A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(5) *Secretary.* The chief administrative official shall designate a qualified person to serve as Secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the Chief Administrative Officer.

(6) *Compensation of members.* Compensation of members shall be determined by law.

(C) *Notice of meeting.* The Board shall meet upon notice from the Chairperson, within 20 days of the filing of an appeal, or at stated periodic meetings.

(D) *Open hearing.* All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership. The Board shall adopt and make available to the public, through the Secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(E) *Postponed hearing.* When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(F) *Board decision.* The Board shall modify or reverse the decision of the Code Official only by a concurring vote of the total number of appointed Board members.

(G) *Records and copies.* The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

(H) *Administration.* The Code Official shall take immediate action in accordance with the decision

of the Board.

(I) *Court review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. ~~Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Chief Administrative Officer.~~

(J) *Stays of enforcement.* Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Appeals Board.
(2002 Code, § 2-481) (Ord. 2010-12, passed 7-12-2010)

CHAPTER 35: ELECTIONS

Section

- 35.01 ~~Dates~~ **Elections**
- 35.02 Special election notice
- ~~35.03 Petition candidates; procedure~~
- 35.04 Nomination of Council members
- ~~35.05 Definition; voter qualifications~~
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- ~~35.11 Recall procedure; definitions~~
- 35.12 Candidate qualifications
- 35.13 Exit polls

§ 35.01 ~~DATES~~ **ELECTIONS.**

The city shall hold its city election ~~on that date~~ provided by the laws of the state. Such elections shall be held in accordance with the provisions of Neb. RS 32-101 et seq. (2002 Code, § 30-1)

§ 35.02 **SPECIAL ELECTION NOTICE.**

(A) Except as otherwise provided by law, no less than five days, nor more than ten days, prior to any special city election, the City Clerk shall prepare and cause to be published once in a newspaper that is in or of general circulation in the city; but, if no newspaper is published in or is of general circulation in the city, then by posting in each of three public places in the city a notice containing the proclamation concerning the special election.

(B) The notice shall be in the form prescribed by state law.
(2002 Code, § 30-2)

Statutory reference:

Related provisions, see Neb. RS 19-3006

~~§ 35.03 PETITION CANDIDATES; PROCEDURE.~~

~~— (A) Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee.~~

~~— (B) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-626 and the candidate files for the office by petition as prescribed in this section.~~

~~— (C) The number of signatures of registered voters needed to place the name of a candidate upon the non-partisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the city.~~

~~— (D) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the city, not to exceed 2,000.~~

~~— (E) (1) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the city and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee.~~

~~— (2) The petitions shall be filed by September 1 in the year of the general election.~~
~~(2002 Code, § 30-3)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 32-616 through 32-618~~

§ 35.04 NOMINATION OF COUNCIL MEMBERS.

Any elector of the city shall be considered nominated for the office of Council member if a petition, containing not less than 50, nor more than 100, qualified electors of the city, or a statement of candidacy is filed in his or her behalf with the City Clerk at least 60 days prior to the statewide primary election.

(2002 Code, § 30-4)

Statutory reference:

Related provisions, see Neb. RS 19-3007,01

§ 35.05 DEFINITION; VOTER QUALIFICATIONS. MOVE TO FRONT OF BOOK IN ‘DEFINITIONS.’

ELECTOR means 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. 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.

(2002 Code, § 30-5)

Statutory reference:

“Elector” defined, see *Neb. RS 32-110*

§ 35.06 WARDS.

The city shall be and is hereby divided into four wards. ~~as follows:~~ **A copy of said ward map is available at the office of the City Clerk.**

~~—(A) First Ward shall consist of all territory in said city east and south of a line commencing at the south boundary of the city on South Nebraska Street, thence north on South Nebraska Street to Fairground Avenue, thence west on Fairground Avenue to Main Street, thence north on Main Street to East 10th Street, thence east on East 10th Street to the alley east of Windom Street, thence south on the alley east of Windom Street to 9th Street, thence east on 9th Street to Pine Heights Road, thence northerly on Pine Heights Road to East 10th Street, thence east on East 10th Street to Providence Road, thence southerly on Providence Road to Sunnyview Drive, thence easterly on Sunnyview Drive to Hillside Drive, thence south on Hillside Drive to East 7th Street, thence east on 7th Street to the city limits.~~

~~—(B) Second Ward shall consist of all territory in said city north and east of a line commencing at the east boundary of the city on 7th Street, thence west on 7th Street to Hillside Drive, thence north on Hillside Drive to Sunnyview Drive, thence westerly on Sunnyview Drive to Providence Road, thence northerly on Providence Road to East 10th Street, thence west on East 10th Street to Pine Heights Road, thence southerly on Pine Heights Road to East 9th Street, thence west on East 9th Street to the alley east of Windom Street, thence north on the alley east of Windom Street to J.G.W. Lewis Drive, thence west on J.G.W. Lewis Drive to Main Street, thence north on Main Street to city limits.~~

~~—(C) Third Ward shall consist of all territory in said city north and west of a line commencing at the north boundary of the city on Main Street, thence south on Main Street to J.G.W. Lewis Drive, thence east on J.G.W. Lewis Drive to Schreiner Drive, thence south on Schreiner Drive to East 10th Street, thence west on East 10th Street to Main Street, thence south on Main Street to 8th Street, thence west on 8th Street to Lincoln Street, thence south on Lincoln Street to 7th Street, thence west on 7th Street to city limits.~~

~~— (D) Fourth Ward shall consist of all territory in said city south and west of a line commencing at the south boundary of the city on South Nebraska Street, thence north on South Nebraska Street to Fairground Avenue, thence west on Fairground Avenue to Main Street, thence north on Main Street to 8th Street, thence west on 8th Street to Lincoln Street, thence south on Lincoln Street to 7th Street, thence west on 7th Street to the city limits.~~

~~(2002 Code, § 30-6) (Ord. 2001-18, passed 11-13-2001; Ord. 2011-23, passed 10-18-2011)~~

~~Statutory reference:~~

~~— City to be divided into wards, see Neb. RS 16-104~~

~~— “Ward” defined, see Neb. RS 32-120~~

§ 35.07 RECALL AUTHORIZED.

(A) Any or all of the members of the Council and the Mayor may be removed from office by the registered voters of the city. An affidavit shall be made by one or more registered voters and filed with the City Clerk, stating the name and office of the officer sought to be removed. A petition demanding that the question of removing such officer be submitted to the registered voters shall be filed with the City Clerk. Such petition for the recall of any or all such officers shall, if such officer was elected at large, be signed by registered voters equal in number to at least 35% of the total number of votes cast at the last preceding regular city election; or, if such officer was elected from a ward, the petition shall be signed by registered voters of such ward equal in number to at least 35% of the total number of votes cast in such ward at the last preceding regular city election. The signatures to such petition need not be appended to any one paper. Such petition papers shall be issued, signed and filed as provided for by state statutes.

(B) No recall petition shall be filed against members of the Council or the Mayor within six months after he or she takes his or her office, nor within 12 months after a recall election has failed to remove him or her.

(2002 Code, § 30-7)

Statutory reference:

Related provisions, see Neb. RS 32-1309

§ 35.08 ELECTED MEMBERS; REMOVAL FROM OFFICE.

Elected members of the city may be removed from office by recall by the registered voters of the city.

(2002 Code, § 30-8)

§ 35.09 ELECTED OFFICIALS; RECALL PROCEDURE.

Elected officials may be recalled pursuant to procedures in Neb. RS 32-213 et seq.

~~(A) A petition demanding removal of the elected officials of the city shall be procured from and filed with the filing 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 or more registered voters and filed with the filing clerk, stating the name and office of the officer sought to be removed. The filing clerk, upon issuing any petition, shall enter in a record, to be kept in the clerk's office, the name of the registered voter 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 to whom the papers were issued and the date they were issued.~~

~~—(B) Circulators of such petitions shall comply with all requirements of the statutes of the state. Such petition demanding that recall be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total votes cast at the last general city elections, except for an office where more than one candidate is chosen, in which case the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. 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.~~

~~—(C) (1) All petitions shall be filed with the filing clerk for signature verification as one instrument, within 30 days of issuance of the original petition papers. Within ten 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, the clerk shall notify the person filing the petition that a petition may be cured at any time within ten 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 filing clerk receives an affidavit signed by the person requesting his or her signature be removed. The filing clerk shall, within five days after any correction, examine the corrected petition and attach a certificate as in the case of the original petition.~~

~~—(2) If the certificate shows the corrected petition to be insufficient or if no correction was made, the clerk shall file the petition in the clerk's office without prejudice to the filing of a new petition for the same purpose.~~

~~—(D) 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 days after the notice, the clerk shall submit, within ten days after the five day period has elapsed, the original petition and supplement, together with the clerk's certificate, to the Council. Upon receipt of such petition and certificate, the Council shall order an election to be held not less than 30, nor more than 45, days after the five day period; except that, if any other election is to be held in that district within 90 days of the five day period, the Council may provide for the holding of the removal election on the same day.~~

~~—(E) No recall petition shall be filed against members of the Council within 12 months after a recall election has failed to remove from office or within six months from the end of the term of office.~~

~~(2002 Code, § 30-9)~~

§ 35.10 JOINT, SPECIAL.

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

(2002 Code, § 30-10)

~~§ 35.11 RECALL PROCEDURE, DEFINITIONS.~~

~~—For the purpose of §§ 35.07 through 35.11 of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

FILING CLERK. The City Clerk. **Move to front of book under “Definitions.”**

~~—SIGNATURE. Includes the mark of a person unable to write his or her name when the mark is made near the name of the person unable to write his or her name.~~

VOTER. An individual who is duly registered to vote and qualified by his or her place of residence as an elector in the general election for the office in question. **Move to front of book under “Definitions.”**

(2002 Code, § 30-11)

§ 35.12 CANDIDATE QUALIFICATIONS.

Any person seeking elective office in the city shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The Mayor and members of the Council shall be residents and qualified electors of the city. They shall not hold any other elective public office, except for officers of public power districts, public power and irrigation districts and public utility companies.

(2002 Code, § 30-12)

§ 35.13 EXIT POLLS.

No person shall conduct any exit poll, public opinion poll or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place room or, if inside the polling place building, within 100 feet of any voting booth.
(2002 Code, § 30-13)

~~CHAPTER 36: INITIATIVES AND REFERENDUMS~~

~~Section~~

- ~~36.01 Authorized~~
- ~~36.02 Definitions~~
- ~~36.03 Petitions, ballots, forms, declaratory judgments, signature sheets, affidavits, notification and verification~~
- ~~36.04 Frequency of occurrence~~
- ~~36.05 Direct votes~~
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- ~~36.09 Referendums; limitation, passage~~
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~~§ 36.01 AUTHORIZED.~~

~~The powers of initiative and referendum are reserved to the qualified electors of the city by state law. This chapter shall govern the use of initiative to enact and the use of referendum to amend or repeal measures affecting the governance of the city.
(2002 Code, § 30-51)~~

~~§ 36.02 DEFINITIONS.~~

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

~~**CIRCULATOR.** Any person who solicits signatures for an initiative or referendum petition.~~

~~**CLERK.** The City Clerk or the city official in charge of elections.~~

~~**MEASURE.** An ordinance, Charter provision or resolution which is within the legislative authority of the Council to pass, and which is not excluded from the operation of referendum by the exceptions in § 36.09(A) of this chapter.~~

~~**PETITION.** A document authorized for circulation pursuant to § 36.03(A) of this chapter or~~

~~any copy of such document.~~

~~— *PLACE OF RESIDENCE.* The street and number of the residence. If there is no street and number for the residence, *PLACE OF RESIDENCE* shall mean the mailing address.~~

~~— *PROSPECTIVE PETITION.* A sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.~~

~~— *QUALIFIED ELECTORS.* All persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.~~

~~— *SIGNATURE SHEET.* A sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.~~

~~(2002 Code, § 30-52)~~

~~*Statutory reference:*~~

~~— *Related provisions, see Neb. RS 18-2501 through 18-2511*~~

~~§ 36.03 PETITIONS; BALLOTS, FORMS, DECLARATORY JUDGMENTS, SIGNATURE SHEETS, AFFIDAVITS, NOTIFICATION AND VERIFICATION.~~

~~— (A) *Ballots:*~~

~~— (1) Before circulating an initiative or referendum petition, the petitioner shall file with the Clerk a prospective petition. The Clerk shall date the prospective petition immediately upon its receipt. The Clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal. If the prospective petition is in proper form, the Clerk shall authorize the circulation of the petition; and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the Clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the Clerk in proper form, the Clerk shall authorize the circulation of the petition; and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the Clerk that the prospective petition is in proper form does not constitute an admission by the Clerk, the Council, or the city that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative. The ballot title of any measure to be initiated or referred shall consist of a:~~

~~— (a) Briefly worded caption by which the measure is commonly known or which accurately summarizes the measure;~~

~~————— (b) Briefly worded question which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and~~

~~————— (c) Concise and impartial statement, of not more than 75 words, of the chief purpose of the measure.~~

~~————— (2) The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots, and the ballots shall be printed in lower case ten point type; except that, the caption shall be in boldface type. All initiative and referendum measures shall be submitted in a non-partisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.~~

~~(2002 Code, § 30-53)~~

~~————— (B) *Petitions; form; declaratory judgments.*~~

~~————— (1) The Secretary of State shall design the form to be used for initiative and referendum petitions, including signature sheets. These forms shall be made available to the public by the Clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the Clerk pursuant to division (A) above. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation once authorization for circulation has been granted, and each petition presented for signature must be identical to the petition authorized for circulation by the Clerk pursuant to division (A) above.~~

~~(2) The city or any chief petitioner may seek a declaratory judgment regarding any questions arising under this chapter, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the city shall be served by personal, residence or certified mail service upon the chief executive officer or Clerk. If the city seeks a declaratory judgment, only the chief petitioner shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the District Court at any time after the filing of a referendum or initiative petition with the City Clerk for signature verification until 40 days from the date the Council received notification pursuant to division (E) below. If the city does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification pursuant to division (E) below, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this chapter. If the city does file such an action prior to receiving notification pursuant to division (E) below, it shall not be required to proceed to hold such election until a final decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by Neb. RS 25-21,149 through 25-21,164; except that, only the city and each chief petitioner shall be required to be made parties. The city, the Clerk, the Council or any of the city's officers shall be entitled to rely on any order rendered by the court in any such proceeding. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental in addition to, other rights and remedies conferred by law.~~

~~(3) Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the city potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and ballot title required in division (A) above, and only qualified electors shall circulate petitions. When a special election is being requested, such fact shall be stated on every petition.~~

~~(2002 Code, § 30-54)~~

~~(C) Signature sheets.~~

~~(1) Every signature sheet shall:~~

~~(a) Contain the caption required in division (A) above;~~

~~(b) Be part of a complete and authorized petition when presented to potential signatories;~~

~~(c) Provide space for signatories to write their names, places of residence and the date of signing; and~~

~~(d) Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.~~

~~———— (2) No more than 25 signatures on each signature sheet shall be counted. In order to be valid, a signature shall be that of an individual registered to vote, at the time of signing, in the jurisdiction governed or to be governed by the measure addressed in the petition. A signature shall include the signatory's full name, place of residence and the date of signing. No signatory shall use ditto marks as a means of affixing place of residence or date on any petition. (2002 Code, § 30-55)~~

~~———— (D) *Petitions; affidavit.* Included in the contents of every petition shall be an affidavit, to be signed by the circulator in the presence of a notary, which states that the circulator is a qualified elector, that each person who signed the petition did so in the presence of the circulator on the date indicated, and that the circulator believes that each signatory was registered to vote and has stated his or her name and place of residence correctly. (2002 Code, § 30-56)~~

~~———— (E) *Petitions; notification; verification.*~~

~~———— (1) A signed petition shall be filed with the Clerk for signature verification. Upon the filing of a petition, and passage of a resolution by the Council, the city and the County Clerk, by mutual agreement, provide that the County Clerk shall ascertain whether the petition is signed by the requisite number of voters.~~

~~———— (2) In order for an initiative or referendum proposal to be submitted to the Council and the voters, the necessary signatures shall be on file with the Clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void. (2002 Code, § 30-57)~~

~~*Statutory reference:*~~

~~———— *Related provisions, see Neb. RS 18-2512, 18-2513, 18-2516, 18-217, 18-2518*~~

~~§ 36.04 FREQUENCY OF OCCURRENCE.~~

~~———— The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to repeal or alter. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish such attempt, or essentially the same purpose as the previous attempt. (2002 Code, § 30-58)~~

~~*Statutory reference:*~~

~~———— *Related provisions, see Neb. RS 18-2519*~~

~~§ 36.05 DIRECT VOTE.~~

~~———— The executive officer and the Council may at any time, by resolution, provide for the~~

~~submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under this chapter and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the Clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in this chapter for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast.~~

~~(2002 Code, § 30-59)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 18-2520~~

~~§ 36.06 ELECTIONS.~~

~~— (A) The Clerk shall call elections under this chapter, either at a special election or regularly scheduled primary or general election. No special election to be conducted by the Election Commission or County Clerk shall be held within 30 days prior to the statewide primary or general election or within 60 days after the statewide primary or general election. The Clerk shall cause notice of every such election to be published in a newspaper of general circulation in the city and post the notice in the office of the Clerk. The notice shall be substantially as follows:~~

~~Notice is hereby given that on Tuesday, the _____ day of _____, at _____ of Wayne, Nebraska, an election will be held at which there will be submitted to the electors of the city for their approval or rejection, the following measures, propositions, or issues:~~

~~_____

_____~~

~~which election will be open at 8:00 a.m. and will continue open until 8:00 p.m., of the same day. Dated this day of _____, _____,~~

~~_____

City Clerk of Wayne, Nebraska.~~

~~— (B) The Clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.~~

~~(2002 Code, § 30-60)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 18-2521~~

~~§ 36.07 BALLOTS.~~

~~— All ballots for use in special elections under this chapter shall be prepared by the Clerk and furnished by the Council unless the Council contracts with the county for such service and shall~~

~~be in the same form as provided by law for election of the executive officer and Council. When ordinances under such section are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in this chapter.~~

~~(2002 Code, § 30-61)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 18-2522~~

~~§ 36.08 INITIATIVES.~~

~~— (A) The power of initiative allows citizens the right to enact measures affecting the governance of the city. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law unless such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.~~

~~— (B) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion, which is not subject to referendum or subject only to limited referendum pursuant to § 36.09(A) of this chapter.~~

~~— (C) Whenever an initiative petition bearing signatures equal in number to at least 15% of the qualified electors of the city has been filed with the Clerk and verified, it shall be the duty of the Council to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the Council fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the city. If the Council desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the city, the Council shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.~~

~~— (D) Whenever an initiative petition bearing signatures equal in number to at least 20% of the qualified electors which requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the Clerk and verified pursuant to § 36.03(E) of this chapter, it shall be the duty of the Council to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the Council fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. The date of such election shall not be less than 30, nor more than 60, days from the date the Council received notification pursuant to § 36.03(E) of this chapter.~~

~~— (E) If a majority of voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the city 30 days after certification of the election results, unless the Council by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed, except~~

~~by two thirds majority of the members of the Council. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.
(2002 Code, § 30-62)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 18-2523 through 18-2526~~

~~§ 36.09 REFERENDUMS; LIMITATION, PASSAGE.~~

~~(A) (1) The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of the city.~~

~~(a) The following measures shall not be subject to referendum or limited referendum:~~

~~1. Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants or other evidences of indebtedness; for projects previously approved by a measure which was or is subject to referendum or limited referendum or previously approved by a measure adopted prior to the effective date of the ordinance from which this chapter derives;~~

~~2. Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;~~

~~3. Measures adopting proposed budget statements following compliance with procedures set forth in the State Budget Act;~~

~~4. Measures relating to the immediate preservation of the public peace, health or safety which have been designated as urgent measures by unanimous vote of those present and voting of the Council and approved by its executive officer;~~

~~5. Measures relating to projects for which notice has been given as provided for in division (A)(3) below for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;~~

~~6. Resolutions directing the Clerk to cause measures to be submitted to a vote of the people at a special election as provided in § 36.08 of this chapter and division (B) below;~~

~~7. Resolutions ordering an earlier effective date for measures enacted by initiative as provided in § 36.08 of this chapter; and~~

~~8. Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidence of indebtedness.~~

~~(b) The following measures shall be subject to limited referendum:~~

~~1. Measures in furtherance of a policy of the city or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election; except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative or approved by the voters at an election;~~

~~2. Measures relating to the acquisition, construction, installation, improvement or enlargement, including the financing or refinancing of the costs of public ways, public property, utility systems and other capital projects, and measures giving initial approval for industrial development projects;~~

~~3. Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidences of indebtedness, and pay rates and salaries for city employees other than the members of the Council and the executive officer; and~~

~~4. Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants or other evidences of indebtedness.~~

~~(2) Measures subject to limited referendum shall ordinarily take effect 30 days after their passage by the Council, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to § 36.03(E) of this chapter within 30 days after such measure's passage by the Council, including an override of any veto, if necessary, or after notice is first published pursuant to division (A)(3) below. If the necessary number of signatures as provided in § 36.08 of this chapter has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.~~

~~(3) For any measure relating to the acquisition, construction, installation, improvement or enlargement of public ways, public property, utility systems or other capital projects, the city may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in this chapter by the following procedure:~~

~~(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the Council's jurisdiction;~~

~~(b) By passage of a measure approving the project, including an override of a veto, if necessary, at a meeting held on any date subsequent to the date of hearing; and~~

~~(c) After passage of such measure, including an override of a veto, if necessary, by giving notice as follows:~~

~~1. For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum;~~

~~2. For projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by this division (A)(3)(c)2. shall be published in at least one newspaper of general circulation within the city and shall be published not later than 15 days after passage by the Council, including an override of a veto, if necessary, of a measure approving the project.~~

~~(4) All measures, except as provided in divisions (A)(1)(a), (A)(1)(b) and (A)(3) above, shall be subject to the referendum procedure at any time after such measure has been passed by the Council, including an override of a veto, if necessary, or enacted by the voters by initiative. (2002 Code, § 30-63)~~

~~(B) (1) Whenever a referendum petition bearing signatures equal in number to at least 15% of the qualified electors of the city has been filed with the Clerk and verified pursuant to § 36.03(E) of this chapter, it shall be the duty of the Council to reconsider the measure or portion of such measure which is the object of the referendum. If the Council fails to repeal or amend the measure or portion of such measure in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the Council receives notification pursuant to § 36.03(E) of this chapter, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the city. If the Council desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the city, the Council shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.~~

~~(2) Whenever a referendum petition bearing signatures equal in number to at least 20% of the qualified voters of the city which requests that a special election be called to submit the referendum measure to a vote of the people has been filed with the Clerk and verified, it shall be the duty of the Council to reconsider the measure or portion of such measure which is the object of the referendum. If the Council fails to repeal or amend the measure or portion in the manner proposed by the referendum, including an override of any veto, if necessary, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within 30 days from the date the Council received notification. The date of such special election shall not be less than 30, nor more than 60, days from the date the Council received notification. (2002 Code, § 30-64)~~

~~Statutory reference:~~~~— Related provisions, see Neb. RS 18-2527 through 18-2530~~~~§ 36.10 APPLICABILITY.~~~~— (A) The provisions of the statutes of the state relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recounts of votes, so far as applicable, shall apply to voting on ordinances by the electors pursuant to this chapter.~~~~— (B) Nothing in this chapter shall apply to procedures for initiatives or referendums provided in Neb. RS 18-412, 18-412.02, 70-504, 70-650.01, 70-650.02, 80-203, 80-204 and 80-205.~~~~(2002 Code, § 30-66)~~~~Statutory reference:~~~~— Related provisions, see Neb. RS 18-2536, 18-2537~~~~§ 36.99 PENALTY.~~~~— (A) Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under Neb. RS 18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$300 on the fine.~~~~— (B) Whoever falsely makes or willfully destroys a petition or any part, or signs a false name, or signs or files any petition knowing it or any part to be falsely made, or suppresses any petition, or any part, which has been duly filed, pursuant to Neb. RS 18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$500 on the fine.~~~~— (C) Whoever signs any petition under Neb. RS 18-2501 through 18-2531, knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of \$300 on the fine.~~~~— (D) Any Clerk who willfully refuses to comply with the provisions of Neb. RS 18-2501 through 18-2531 or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class IV misdemeanor, but imprisonment shall not be included as part of the punishment and the fine shall not exceed \$500.~~~~(2002 Code, § 30-65)~~~~Statutory reference:~~~~— Related provisions, see Neb. RS 18-2532 through 18-2535~~

~~CHAPTER 37: FINANCE~~

DELETE THIS SECTION EXCEPT 37.07 AND 37.18 – MOVE THOSE TO THE PLACES INDICATED.

Section

General Provisions

- ~~37.01 Intergovernmental risk management; authority~~
- ~~37.02 Financial statement~~
- ~~37.03 Filing budget statement~~
- ~~37.04 Proposed budget statement; hearing; adoption; certification of amount to be received from taxation~~
- ~~37.05 Statement for reimbursement of property taxes; budget statement; final adjusted valuation; levy~~
- ~~37.06 Annual audit; financial statements~~
- 37.07 Advisory Audit Committee (**Move to City organization and subcommittees**)
- ~~37.08 Property tax~~
- ~~37.09 Appropriation~~
- ~~37.10 Expenditures; limitations~~
- ~~37.11 Judgment~~
- ~~37.12 Unlawful transfers~~
- ~~37.13 Lawful transfer of funds~~
- ~~37.14 Insufficient funds~~
- ~~37.15 Sinking funds~~
- ~~37.16 Investment of funds~~
- ~~37.17 Claims and accounts payable; filing; requirements; disallowance; notice; costs~~
- 37.18 Claims; audits (**Move this to job description of Treasurer**)
- ~~37.19 Warrants~~
- ~~37.20 Motor vehicle tax~~

~~Depositories, Deposits~~

- ~~37.35 Depositories~~
- ~~37.36 Certificates of deposit; time deposits; security required~~
- ~~37.37 Depository bond~~
- ~~37.38 Depository securities~~

~~37.39 Maximum deposits~~*Contracts*~~37.50 Contracts; appropriation~~~~37.51 Contract vote~~~~37.52 Contracts and purchases; bidding and other requirements~~*GENERAL PROVISIONS*~~§ 37.01 INTERGOVERNMENTAL RISK MANAGEMENT; AUTHORITY.~~

~~The Council and any one or more public agencies, as defined in Neb. RS 44-4303, may make and execute an agreement providing for joint and cooperative action in accordance with Neb. RS 44-4301 et seq., 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:~~

~~(A) General liability;~~

~~(B) 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;~~

~~(C) Errors and omissions liability; and~~~~(D) Workers' compensation liability.~~~~(2002 Code, § 2-511)~~~~Statutory reference:~~~~Intergovernmental risk management, see Neb. RS 44-4301 et seq.~~~~§ 37.02 FINANCIAL STATEMENT.~~

~~The Council shall cause to be published semiannually a statement of the receipts of the city and their sources and an itemized account of the expenditures and the financial condition of the city.~~

~~(2002 Code, § 2-512)~~~~Statutory reference:~~~~Related provisions, see Neb. RS 16-722~~

~~§ 37.03 FILING BUDGET STATEMENT.~~

~~(A) The Council shall, not later than August 1 of each year on forms prescribed and furnished by the State Auditor, prepare in writing and file with the City Clerk a proposed budget statement containing the following:~~

~~(1) For the immediate two prior fiscal years, the budgeted revenue and expenditures from all sources, separately stated as to each such source and, for each fund, the budgeted unencumbered cash balance of such fund at the beginning of each fiscal year;~~

~~(2) For the current fiscal year, the budgeted revenue and expenditures, from all sources, separately stated as to each such source, and for each fund the budgeted unencumbered cash balance of such fund at the beginning of the year. Such statement shall contain the cash reserve for each such fund for each fiscal year. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted for such fund, exclusive of capital outlay items;~~

~~(3) For the immediate ensuing fiscal year, the budget statement should include an estimate of the non-tax revenue from each source and which fund it is to be allocated to, the actual or estimated unencumbered cash balance for each fund which will be available at the beginning of the next fiscal year, amounts proposed to be expended during the year, and the amount of cash reserve which shall not exceed 50% of the total budget adopted, exclusive of capital outlay items;~~

~~(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property for the purpose of paying the principal or interest on bonds issued by the Council and for all other purposes;~~

~~(5) A uniform summary of the proposed budget statement which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, see Neb. RS 18-2801 et seq., and a grand total of all funds maintained by the Council; and~~

~~(6) A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the Municipal Proprietary Function Act.~~

~~(B) The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the city as well as any funds held by the County Treasurer for the city and shall be accurately stated on the proposed budget statement.~~

~~—(C) The estimated expenditures, plus the required cash reserve, for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property and the estimated amount of reimbursements of property tax pursuant to Neb. RS 13-504(2) shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement filed pursuant to this section and the itemized estimate for reimbursement of property taxes filed pursuant to Neb. RS 13-504. The amount to be raised from taxation, as determined in this section, plus the estimated revenue from sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the required cash reserve for the ensuing year.~~

~~(2002 Code, § 2-513)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 13-504, 13-505~~

~~§ 37.04 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION.~~

~~—(A) After the filing of the proposed budget statement with the City Clerk, the Council shall each year conduct a public hearing on the proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the city or by direct mailing of the notice to each resident within the city.~~

~~—(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the Levying Board after the proposed budget statement is adopted, or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the Council and the amount to be received for all other purposes.~~

~~—(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.~~

~~—(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.~~

~~(2002 Code, § 2-514)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 13-506, 13-507~~

~~§ 37.05 STATEMENT FOR REIMBURSEMENT OF PROPERTY TAXES; BUDGET STATEMENT; FINAL ADJUSTED VALUATION; LEVY.~~

~~—(A) After publication and hearing thereon and within the time prescribed by law, the Council shall file with and certify to the Levying Board on or before September 20 of each year and file with the Auditor a copy of the adopted statement of the amount for reimbursement of property taxes pursuant to Neb. RS 13-504(2) and the adopted budget statement which complies with Neb. RS 13-518 to 13-522 or Neb. RS 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted budget, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the Council and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, a Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under Neb. RS 13-505.~~

~~—(B) After publication and hearing thereon and within the time prescribed by law, Council is responsible for certifying a levy pursuant to Neb. RS 77-1601.02 and shall file with the Levying Board on or before October 31 of each year and file with the Auditor a certified copy of any resolution passed setting a tax levy which shall not exceed the maximum levy prescribed by state law and a statement reconciling the levy set by the Council with the budget filed pursuant to division (A) above. The levy shall be set to fund property tax requirements in the adopted budget to four to eight places to the right of the decimal point.~~

~~—(C) The Council shall use the final adjusted values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The Council may designate one of its members to perform any duty or responsibility required of such body by this section.~~

~~(2002 Code, § 2-515)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 13-508~~

~~§ 37.06 ANNUAL AUDIT; FINANCIAL STATEMENTS.~~

~~The Council shall cause an audit of the city's accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the Council. The audit shall be completed and the annual audit report made not later than six months after the close of the fiscal year unless an extension of time shall be granted by a written resolution adopted by the Council. The accountant making the audit shall submit not less than three copies of the audit report to the Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, 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 city as well as an opinion by the accountant with respect to the financial statements. The Council shall provide and file with the City Clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (2002 Code, § 2-516)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-2903~~

§ 37.07 ADVISORY AUDIT COMMITTEE. **Move to City organization and subcommittees**

(A) *Created.* There is created, established and constituted an Advisory Audit Committee which shall consist of three Council members, who shall be appointed by the Mayor with the consent and approval of the Council. Each member of the Committee shall serve a term of one year, unless reappointed.

(B) *Powers.*

(1) The Committee shall have the obligation of reviewing, studying, analyzing, investigating, examining, researching and inquiring to provide a thorough analysis of any and all fiscal reports relating to the city and to report, recommend, or issue any analysis or policy change the Committee deems appropriate to the Council. In connection therewith, the Committee have the power to:

(a) Review, examine, investigate and analyze any and all documents, reports, operating statements, financial statements and other policy matters relating to fiscal matters of the city;

(b) Interview, question, inquiry and otherwise meet with the City Auditors subject to the condition that they shall not increase the cost of the annual audits of the city;

(c) Request the assistance of any city staff in the performance of the Committee's obligations, duties and powers; and

(d) Recommend any such changes relating to fiscal matters relating to reports, financial statements, operating statements and fiscal policies of the city.

(2) The Committee members shall not receive any remuneration for its services upon the Committee and shall not be reimbursed for any expenses incurred by the Committee.

(2002 Code, § 2-517)

~~§ 37.08 PROPERTY TAX.~~

~~— The Council shall have the power to levy and collect taxes for all city purposes on all real estate and personal property within the corporate limits which is taxable according to the laws of the state. All city taxes, both real and personal, except special assessments otherwise provided for, shall become due on December 1 of each year. The Council shall cause to be certified to the County Clerk the amount of tax to be levied for the purposes of the adopted budget statement, including all special assessments and other taxes. The County Clerk shall then place that amount on the proper tax list to be collected in the manner provided by law.~~

~~(2002 Code, § 2-518)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-702~~

~~§ 37.09 APPROPRIATION.~~

~~— (A) The city shall within the last quarter of each fiscal year pass an ordinance to be termed “The Annual Appropriation Bill”, in which the Council shall appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the city, not exceeding in the aggregate the amount of tax authorized to be levied and revenue available during the then ensuing year. In such ordinance there shall be specified the object and purpose for which such appropriations are made and the amounts appropriated for each object or purpose. (This financial information probably will be the same as the final approved budget.) No further appropriations shall be made at any other time within the fiscal year unless the proposition to make such appropriations has been sanctioned by a majority of the legal voters of the city, either by a petition signed by them or at a general or special election duly called for that purpose.~~

~~— (B) All appropriations shall end with the fiscal year for which they are made; however, the fund arising from road taxes and bridge taxes shall be deemed especially appropriated for street repair purposes, and the income arising from the operation of the utility systems shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements and extensions and additions to those systems respectively, and shall not be included in the annual appropriation ordinance.~~

~~— (C) Nothing contained in this section shall be construed to prohibit the Council from appropriating other money in the annual appropriation bill for the use of streets, grades and bridges, and for water, lighting, power, heating and sewer systems provided the sums so appropriated in the aggregate do not exceed the maximum of tax allowed to be levied and collected as fixed by state law.~~

~~(2002 Code, § 2-519)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-704~~

~~§ 37.10 EXPENDITURES; LIMITATIONS.~~

~~—(A) The Council shall not have power to appropriate, issue or draw any order or warrant on the Treasurer for money, unless the same has been appropriated or ordered by ordinance or the claim for the payment of which such order or warrant is issued has been allowed according to Neb. RS 16-726 to 16-729, and a fund has been provided in the adopted budget statement out of which such claim is payable.~~

~~—(B) The city payroll for employees shall be established and payable on two week time periods as provided in the adopted budget statement.~~

~~(2002 Code, § 2-520)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 16-706~~

~~§ 37.11 JUDGMENT.~~

~~—Should any judgment be obtained against the city, the Mayor and the committee on finances, with the sanction of the Council, may borrow a sufficient amount to pay the judgment for a period of time not to extend beyond the close of the next fiscal year. The Council shall then add to the amount authorized to be raised in the general tax levy the sum and interest accrued of the judgment.~~

~~(2002 Code, § 2-521)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 16-706~~

~~§ 37.12 UNLAWFUL TRANSFERS.~~

~~—Any transfer or division of the money or credits from any of the funds to another fund or to a purpose other than for which proposed, except as specifically provided in this chapter, shall render any Council member voting for or any city official participating in such transfer or division guilty of a misdemeanor.~~

~~(2002 Code, § 2-522)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 16-706~~

~~§ 37.13 LAWFUL TRANSFER OF FUNDS.~~

~~—When the Council, by a three fourths vote of the members, shall declare the expenditure of any fund for the purpose for which it was created to be unwise and impracticable or where the purpose has been fully accomplished and the whole fund or an unexpired balance of the fund remains, and no indebtedness has been incurred on account of such fund which has not been fully paid, such fund may be transferred to any other fund of the city by the affirmative vote of three fourths of all the members of the Council.~~

~~(2002 Code, § 2-523)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-721~~

~~§ 37.14 INSUFFICIENT FUNDS.~~

~~— The Council may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, by a majority vote, transfer money from other funds to such fund. No expenditure during the fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in this section. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing, at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the city. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for original 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 of the Council, the Council shall file with the County Clerk and the State Auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied for that purpose.~~

~~(2002 Code, § 2-524)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 13-510~~

~~§ 37.15 SINKING FUNDS.~~

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

~~— (B) To initiate the sinking fund, the Council shall declare its purpose by resolution to submit to the qualified electors of the city the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed and the proposition as it will appear on the ballot. Notice of~~

~~the proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the city. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Council may then proceed to establish the fund in conformity with the provisions of the proposition and applicable state law. The funds received by the City Treasurer shall, as they accumulate, be immediately invested with the written approval of the Council in the manner provided by state law.~~

~~—(C) No sinking fund so established shall be used for any purpose contrary to the purpose as it appeared on the ballot unless the Council is authorized to do so by 60% of the qualified electors of the city voting at a general election favoring such a change in the use of the sinking fund.~~

~~(2002 Code, § 2-525)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-1301 through 19-1304~~

~~§ 37.16 INVESTMENT OF FUNDS.~~

~~—Whenever the 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 Council may invest any such surplus in certificates of deposit, in time deposits and in any securities in which the state investment officer is authorized by Neb. RS 72-1237 through 72-1276 and as provided in the authorized investment guidelines of the State Investment Council in effect on the date the investment is made.~~

~~(2002 Code, § 2-531)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 17-609, 21-1316.01~~

~~§ 37.17 CLAIMS AND ACCOUNTS PAYABLE; FILING; REQUIREMENTS; DISALLOWANCE; NOTICE; COSTS.~~

~~—(A) All liquidated and unliquidated claims and accounts payable against a city of the first class shall be presented in writing; state the name and address of the claimant and the amount of the claim; and 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) 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 such claim within 90 days of the accrual of the claim in the office of the City Clerk.~~

~~—(C) The City Clerk 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 Council.~~

~~—(D) No costs shall be recovered against such city in any action brought against it for any~~

~~claim or for any claim allowed in part which has not been presented to the Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.~~

~~(2002 Code, § 2-532)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-726~~

§ 37.18 CLAIMS; AUDITS.

The Council shall, prior to the allowance of any claim against the city, examine and audit the claim to determine whether it is in proper form, is correctly computed, and is justly and legally due and payable, and shall determine the proper fund from which the claim is payable.

(2002 Code, § 2-533)

~~§ 37.19 WARRANTS.~~

~~— Upon allowance of a claim by the Council, the order for the payment shall specify the particular fund or appropriation out of which it is payable as specified in the annual appropriation bill; and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose of 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, except an order or warrant for the payment thereof may legally be drawn. All warrants drawn upon the treasury must be signed by the Mayor and countersigned by the City Clerk and shall state the particular fund or appropriation to which the warrant is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid that has not been drawn upon such warrant. Such warrants may be delivered immediately when so drawn.~~

~~(2002 Code, § 2-534)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-718~~

~~§ 37.20 MOTOR VEHICLE TAX.~~

~~— The Council may levy a tax on all motor vehicles owned or used in the city, which tax shall be paid to the County Treasurer when the registration fees as provided in Neb. RS 60-329 through 60-339 are paid. Such taxes shall be credited by the County Treasurer to the Road Fund of the city. Such funds shall be used by the city for constructing, resurfacing, maintaining or improving streets, roads, alleys, public ways or parts thereof, for the amortization of bonded indebtedness when created for such purposes.~~

~~(2002 Code, § 2-538)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 18-1214~~

~~§ 37.35 DEPOSITORIES.~~

~~— (A) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in state or national banks 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 Council for receiving and holding. The fact that a stockholder, director or other officer of such banking institution shall also be serving as Mayor, member of the Council or as any other officer of the city shall not disqualify such bank from acting as a depository for city funds. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.~~

~~— (B) The Treasurer may deposit the funds received and held by him or her, by virtue of such office, with a cooperative credit association situated within the boundaries of the county, or a county adjoining thereto, where the city is situated, if the city is the depositor, as well as in a commercial state or national bank if the cooperative credit association performs all the conditions precedent required by the laws of the state of commercial state and national banks to qualify them to receive deposits of such public funds. It shall not be necessary for the city, in making such a deposit of public funds, to purchase shares in such a cooperative credit association or become a member thereof, and such a cooperative credit association is hereby authorized and empowered to receive such money under such conditions.~~

~~(2002 Code, § 2-526)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-712, 21-1316.01~~

~~§ 37.36 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; SECURITY REQUIRED.~~

~~— The City Treasurer may, upon resolution of the Council authorizing so, purchase certificates of deposit from and make time deposits in banks selected as depositories of city funds under the provisions of this section. The certificates of deposit purchased and time deposits shall bear interest and shall be secured as set forth in this section. The penal sum of such bond or the sum of such pledge of assets shall be reduced in the amount of the time deposit or certificate of deposit insured by the Federal Deposit Insurance Corporation. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.~~

~~(2002 Code, § 2-527)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-713~~

~~§ 37.37 DEPOSITORY BOND.~~

~~—(A) For the security of a fund deposited, the City Treasurer shall require each depository bank to give bond for the safekeeping and payment of such deposits and their accretions, which bond shall run to the city and be approved by the Mayor. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the City Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and faithfully discharge the trust reposed in such depository. Such bond shall be as nearly as practicable in the form provided by state law; provided, no person in any way connected with any depository bank, as officer or stockholder, shall be accepted as a surety on any bond given by the bank of which he or she is an officer or stockholder. Such bond shall be deposited with the City Clerk. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.~~

~~—(B) The insurance afforded to depositors in banks or capital stock financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation. For deposits so insured, no other surety bond or other security shall be required.~~

~~(2002 Code, § 2-528)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 16-714, 77-2362 through 77-2364~~

~~§ 37.38 DEPOSITORY SECURITIES.~~

~~—In lieu of the bond required by state statute, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act, see Neb. RS 77-2386 et seq., to the City Clerk. The penal sum of the bond shall be equal to or greater than the amount of the deposit in excess of that portion of the deposit insured by the Federal Deposit Insurance Corporation. The provisions of Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions.~~

~~(2002 Code, § 2-529)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 16-715, 77-2364, 77-2386 through 77-2397~~

~~§ 37.39 MAXIMUM DEPOSITS.~~

~~—The Treasurer shall not have on deposit in any bank or capital stock financial institution at any time more than the amount insured by the Federal Deposit Insurance Corporation, plus the maximum amount of the bond given by the bank or capital stock financial institution if the bank or capital stock financial institution gives a surety bond, nor in any bank or capital stock financial institution giving a personal bond, more than the amount insured by the Federal Deposit Insurance Corporation, plus half of the amount of the bond of such bank or capital stock financial institution, and the amount so on deposit any time with any bank or capital stock financial institution shall not in either case exceed the amount insured by the Federal Deposit Insurance Corporation, plus the paid-up capital stock and surplus of such bank or capital stock~~

~~financial institution. The Treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the Mayor as provided in this code at which has, in lieu of a surety bond, given security as provided in this code.~~

~~(2002 Code, § 2-530)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-716~~

~~CONTRACTS~~

~~§ 37.50 CONTRACTS; APPROPRIATION.~~

~~— No contract shall be made by the Council or any committee or member of the Council and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure is ordered by the Council or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise provided by law.~~

~~(2002 Code, § 2-535)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-501~~

~~§ 37.51 CONTRACT VOTE.~~

~~— On the passage or adoption of every resolution or order to enter into a contract, or accepting of work done under contract, by the Mayor or the Council, the yeas and nays shall be called and entered upon the record. To pass or adopt any bylaw, ordinance or any such resolution or order, a concurrence of a majority of the members elected to the Council shall be required. The Mayor may vote on any such matter when his or her vote shall be decisive and the Council is equally divided; and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each Council member to be readily seen by the public.~~

~~(2002 Code, § 2-536)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 16-503~~

~~§ 37.52 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.~~

~~— (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 such improvement is assessed to the property, costing over \$20,000, shall be made unless it is first approved by the Council.~~

~~—(B) Except as provided in Neb. RS 18-412.01, before the Council makes any contract in excess of \$20,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvements when the cost of such enlargements or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer and submitted to the Council. In advertising for bids as provided in divisions (C) and (E) below, the Council may publish the amount of the estimate.~~

~~—(C) Advertisements for bids shall be required for any contract costing over \$20,000 entered into for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of such enlargements or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.~~

~~—(D) The 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 such enlargement or improvement without advertising for bids if the price is \$20,000 or less; \$40,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000; \$60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or \$80,000 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) above shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the city. 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 16-405, when adopted by a three-fourths vote of the Council and entered of record.~~

~~—(F) If, after advertising for bids as provided in this section, the Council receives fewer than two bids on a contract or if the bids received by the Council contain a price which exceeds the estimated cost, the 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 the concurrence of the Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.~~

~~—(H) Any city bidding procedure may be waived by the Council 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 when the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503.~~

~~(I) Notwithstanding any other provisions of law, the city may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the Material Division of the Department of Administrative Services. For 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. **Move to front of book under "Definitions."**

PURCHASING or *PURCHASE.* The obtaining of personal property by sale, lease or other contractual means. **Move to front of book under "Definitions."**

(2002 Code, § 2-537) (Ord. 98-14, passed 6-30-1998)

Statutory reference:

Related provisions, see Neb. RS 16-321, 16-321.01

CHAPTER 38: FIRE DEPARTMENT

Section

- 38.01 Creation, composition, organization; powers and duties generally
- 38.02 Chief and Assistant Chief
- 38.03 Membership
- 38.04 Workers' compensation and term life insurance
- ~~38.05 Witness~~
- 38.06 Duties
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- 38.08 Inspections; special hazards, ordinary, mulch or rubbish accumulations
- 38.09 Fire investigations and reports
- 38.10 Records of fires
- 38.11 Watching premises after fires
- 38.12 Departmental records and reports; expenditures
- 38.13 Fires; fighting distant fires
- 38.14 Preservation of property
- 38.15 Alarm systems

§ 38.01 CREATION, COMPOSITION, ORGANIZATION; POWERS AND DUTIES GENERALLY.

The existing volunteer Fire Department of the city is declared to constitute the Fire Department of the city; and there are created the offices of Chief and Assistant Chief of the Fire Department. It shall be the duty of the Fire Department of the city to keep its apparatus, hose, engines and other equipment in serviceable condition and to repair with due haste to all fires and to remain at each fire until dismissed by the Chief of the Fire Department of the city. The members shall be under the command and control of the Chief at all fires, and it shall be the duty of each and all members to obey his or her orders and follow his or her directions. Any member who shall willfully and without good cause disobey any order of the Chief when at a fire may be summarily expelled from the Fire Department by the Council. It shall be the duty of each member of the Department to prevent, as far as within his or her power, the unnecessary destruction of the contents of the building on fire. It shall be the duty of the Assistant Chief of the Fire Department to assist the Chief in matters pertaining to the Fire Department and to exercise the powers and duties of the Chief during the absence or disability of the Chief. (2002 Code, § 38-91)

§ 38.02 CHIEF AND ASSISTANT CHIEF.

The members of the Fire Department of the city shall, at the time of each annual meeting of the Department, recommend ~~some person~~ **a member** for the office of Chief of the Fire Department ~~and some person for the office of assistant Chief of the Fire Department.~~ ~~which~~ **Such** persons, on being confirmed by the Council, shall hold such offices until ~~their~~ **his/her** successors shall be appointed and qualified. ~~These~~ **This** officers shall be subject to removal by the Council at any time. The Department shall at such time elect such other officers as it deems necessary.
(2002 Code, § 38-92)

§ 38.03 MEMBERSHIP.

(A) The Fire Chief shall appoint no more than 25 members for each Fire Department company, subject to the review and approval of the Council.

(B) All vacancies shall be filled in this manner. The Fire Department shall consist of so many members as may be decided by the Council. The members may organize themselves in any way they may decide, subject to the review of the Council. They may hold meetings and engage in social activities with the approval of the Council.

(C) The Secretary shall, upon request, keep a record of all meetings and shall make a report to the Council of all meetings and activities of the Fire Department.

(D) The Council may, for services rendered, compensate any member of the Fire Department in an amount set by resolution.

(E) All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the Council.
(2002 Code, § 38-93)

Statutory reference:

Related provisions, see Neb. RS 35-102

§ 38.04 WORKERS' COMPENSATION AND TERM LIFE INSURANCE.

Members of the Fire Department shall be considered to be employees of the city for the purpose of providing members with workers' compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least ~~\$5,000~~ **10,000** for death from any cause to age 65; and such policy shall, at the option of the individual firefighter, be convertible to a permanent form of life insurance at age 65. Coverage shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department.
(2002 Code, § 38-94)

~~§ 38.05 WITNESS.~~

~~Volunteer firefighters and rescue squad members testifying in that capacity alone shall not be deemed employees of the state or of the city.~~

~~(2002 Code, § 38-95)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 33-139.01~~

§ 38.06 DUTIES.

It shall be the duty of the Fire Department to enforce **or assist in the enforcement of** all laws and ordinances covering the following:

(A) The prevention of fires;

(B) The storage and use of explosives and flammables;

(C) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment;

(D) The maintenance and regulation of fire escapes;

(E) The means and adequacy of exits, in case of fire, from factories, schools, hotels, **lodging houses**, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate from time to time for any purpose; and

(F) The investigation of the cause, origin and circumstances of fires.

(2002 Code, § 38-96)

§ 38.07 RIGHT OF ENTRY.

Any inspector or member of the Fire Department, designated by its Chief, may, at all reasonable hours, **as allowed by law**, enter any building or premises within its jurisdiction for the purpose or making any inspection or investigation which, under the provisions of this code, he or she may deem necessary to be made.

(2002 Code, § 38-97)

§ 38.08 INSPECTIONS; SPECIAL HAZARDS, ORDINARY, MULCH OR RUBBISH ACCUMULATIONS.

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(A) *Special hazards.* Any inspector or members of the Fire Department specially designated shall inspect, as often as may be necessary, all particularly hazardous manufacturing processes, storages or installations of gases, chemicals, oils, explosives and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall make such orders as may be necessary for the enforcement of the governing laws and ordinances and for safeguarding of life and property from fire.
(2002 Code, § 38-98)

(B) *Ordinary; mulch or rubbish accumulations.* It shall be the duty of the Chief of the Fire Department to inspect, or cause to be inspected, by the Fire Department officers and members, as often as may be necessary, all buildings and premises, except the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions likely to cause fire, or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard. Whenever any inspector shall find in any building or upon any premises combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulation of waste, paper, boxes, shavings, manure, straw, leaves or other similar loose material, or litter of any kind, or any highly flammable materials, which are so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, likely to interfere with the operations of the Fire Department or egress of occupants in case of fire, he or she shall order the materials to be removed or condition remedied.
(2002 Code, § 38-99)

(C) *Inspections on complaint.* The Chief of the Fire Department or any inspector, upon the complaint of any person or whenever they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any officer shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated, as to endanger other property or the occupants, and whenever such officer shall find in any building combustible or explosive matter or flammable conditions dangerous to the safety of such building or the occupants, he or she shall order such dangerous conditions or materials to be removed or remedied.
(2002 Code, § 38-100)

(D) *Orders following inspection; manner of service; appeal.* The service of notices and orders as mentioned in division (C) above may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of such notices and orders to such occupant personally or by delivering such notices and orders to and leaving them with any person in charge of the premises, or, in case no such person is found upon the premises, by affixing a copy in a conspicuous place on the door to the entrance of the premises. Whenever it may be necessary to serve such notice or order upon the owner of the premises, it may be served either by delivering to and leaving with the person a copy of the notice or order, or, if such owner is absent from the jurisdiction of the officer making notice or order, by mailing such copy by certified mail to the owner's last known post office address. Any such notice or order shall forthwith be complied with by the owner or occupant of such premises or building. If such notice or order is made by one of the inspectors, such owner or occupant may, within 24 hours, appeal to the Chief of the Fire Department, who shall, within five days, review such notice or order and file his or her decision; and, unless, by his or her authority, the notice or order is revoked or modified, it shall remain in full force and be complied with within the time fixed in the notice or order or decision of the Chief of the Fire Department.

(2002 Code, § 38-101)

§ 38.09 FIRE INVESTIGATIONS AND REPORTS.

The Fire Department shall investigate the cause, origin and circumstances of every fire occurring in the city by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall ~~begin~~ **begin** immediately upon the occurrence of such a fire by the Chief of the Fire Department. If it appears that such fire is of suspicious origin, the Chief of the Fire Department shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

(2002 Code, § 38-102)

§ 38.10 RECORD OF FIRES.

The Chief of the Fire Department shall keep a record of all fires and of all the facts concerning the fires, including statistics as to the extent of such fires and the damage caused by such fires, and whether such losses were covered by insurance, and if so, in what amount. All such records shall be public.

(2002 Code, § 38-103)

§ 38.11 WATCHING PREMISES AFTER FIRES.

It shall be the duty of the Chief of the Fire Department, **or his or her designee**, after the engines are withdrawn and the firefighters dismissed from any fire within the city to have and keep charge of the premises until the probable danger of smoldering fire is passed and a reasonable time had for the investigation of the cause of the fire; during this time, he or she shall cause strict watch to be kept and guard the premises of the fire.

(2002 Code, § 38-104)

§ 38.12 DEPARTMENTAL RECORDS AND REPORTS; EXPENDITURES.

(A) The Chief of the Fire Department shall keep a list of all members of the Fire Department, showing the age and occupation of each, the date he or she entered the service and such other data as the Council may require. 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 such other information as the Council deems important. He or she shall include in such report a record of any injury that may have been sustained by any persons on account of the fire. Such record shall, at all times, be available for the inspection of the Council.

(2002 Code, § 38-105)

(B) (1) The Chief of the Fire Department 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 with the report an inventory of the property of the Department. He or she shall file with the City Clerk and the Clerk of the District Court of the county on such dates as required by law a certified copy of the rolls of all members in good standing of the Fire Department in order to obtain the exemptions provided by law.

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

(2002 Code, § 38-106)

(C) 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.

(2002 Code, § 38-107)

(D) The annual report of the Fire Department shall be made on or before May 1 in each year and transmitted to the Council. It shall contain all information and statistics as the Chief of the Fire Department or the Council may wish to include.

(2002 Code, § 38-108)

§ 38.13 FIRES; FIGHTING DISTANT FIRES.

(A) It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires to protect property within the city; and to secure the observance of all ordinances, laws and other rules and regulations with respect to fires and fire prevention.

(2002 Code, § 38-109)

(B) Upon the permission of the Mayor or the Fire Chief, such fire equipment of the city as may be designated by the Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

(2002 Code, § 38-110)

(C) The firefighters of the city shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the city when directed to do so by the Mayor or Chief of the Fire Department or some person authorized to act for such Chief and, in so doing, may take such fire equipment of the city as may be designated by the Council.

(2002 Code, § 38-111)

§ 38.14 PRESERVATION OF PROPERTY.

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The officials may direct the hook and ladder persons to remove any building, erection or fence for the purpose of checking the progress of any fire; and the official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the fire.

(2002 Code, § 38-112)

§ 38.15 ALARM SYSTEMS.

(A) (1) Alarm systems must incorporate a device that allows an adequate delay before the time at which activation of the system would directly or indirectly signal public safety personnel. This delay is to permit the subscriber to stop a false alarm from being transmitted.

(2) The alarm system shall incorporate a device that limits any exterior signal to a period of time not to exceed 60 minutes in duration. At the expiration of the maximum time permitted, the alarm system shall automatically cease to emit a signal.

(2002 Code, § 38-113)

(B) (1) If any alarm system produces three false alarms in any 12 consecutive months, written notice of that fact shall be given by certified mail or delivery to the subscriber, or other appropriate party (available 24 hours a day and seven days a week) at the addresses listed in the most recent such notification for that alarm system. Thereafter, the City Administrator or his or her designated representative shall have the power to require the subscriber to comply with any one or combination of the requirements set forth below as would minimize, in his or her judgment, such false alarms in the future.

(a) The subscriber may be charged for the direct and indirect costs to the city of time, labor, equipment and other services rendered in responding to each subsequent alarm or may be charged a fee, to be adopted by resolution of the Council, per false alarm, whichever is higher. Such charges shall continue for each excessive false alarm until six consecutive months have elapsed during which no false alarms have been registered, and must be paid within 15 days after notice thereof is given in the same manner as provided by this section for notice of excessive false alarms.

(b) The subscriber may be required to cause the alarm system to comply immediately

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with the applicable standards referred to in division (A) above (those standards otherwise being imposed only on alarm systems installed after enactment of this chapter).

(c) The subscriber may be required to disconnect the alarm system immediately in such fashion that signals are not emitted so as to notify public safety personnel directly through automatic telephone recording devices or to register a signal which is so audible, visible or other ways, perceptible outside a protected building, structure or facility as to notify persons in the neighborhood who may in turn notify public safety personnel of the signal.

(2) Notice of the determination of the City Administrator or his or her designated representative shall be given in the same manner as provided by this section for notice of excessive false alarms.

(2002 Code, § 38-114)

(C) Nothing in this chapter, nor the existence of any other fact(s), shall be construed to require a response by public safety personnel to an address or location registering an alarm. The city shall neither assume, nor bear any liability for its failure to respond to such an alarm signal.

(2002 Code, § 38-115)

(Ord. 2005-29, passed 10-11-2005) Penalty, see § 10.99