

## CHAPTER 31: CITY COUNCIL

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***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;

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(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;

(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;

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(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.

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

(D) 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.

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

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

(G) 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.

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

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

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

(K) The rules in this section 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)

**Statutory reference:**

*Meetings of public body, see 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. 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)

**Statutory reference:**

*Appointed officers; terms, see 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 Open Meetings Act, being Neb. RS 84-1407 to 84-1414, 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 Neb. RS 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.

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

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

(D) No public body shall, for the purpose of circumventing the Open Meetings Act, being Neb. RS 84-1407 to 84-1414, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) 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.

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

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

(2) 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;

(3) 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 24 hours in advance;

(4) No more than 25% of the public body's meetings in a calendar year are held out-of-state;

(5) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act, being Neb. RS 84-1407 to 84-1414;

(6) Reasonable arrangements are made to provide viewing at other in-state locations for a videoconference meeting if requested 14 days in advance and if economically and reasonably available in the area; and

(7) The public body publishes notice of the out-of-state meeting at least 21 days before the date of the meeting in a legal newspaper of statewide circulation.

(G) 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.

(H) Public bodies shall make available at the meeting or the in-state 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 being Neb. RS 84-1407 to 84-1414, 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.

(Neb. RS 84-1412) (2002 Code, § 2-82)

### **§ 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. 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:

(1) 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;

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

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(3) Investigative proceedings regarding allegations of criminal misconduct;

(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;

(5) For the community trust created under Neb. RS 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(6) 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.

(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 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 division (A)(1) of this section.

(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.

(E) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, 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.

(F) The section 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.

(Neb. RS 84-1410) (2002 Code, § 2-83)

### **§ 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 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) 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.

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

(3) All ordinances passed at any special meeting shall comply with procedures set forth in §§ 31.50 through 31.59 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 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 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*

**§ 31.54 STYLE.**

The style of all city ordinances shall be: "Be it ordained by the Mayor and Council of the City of Wayne, Nebraska".

(2002 Code, § 2-116)

**Statutory reference:**

*Related provisions, see Neb. RS 16-405*



**§ 31.55 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*

**§ 31.56 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*

**§ 31.57 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)

**§ 31.58 INTRODUCTION.**

Ordinances shall be introduced by members of the Council in the following manner. With the recognition of the Mayor, a Council member may introduce the ordinance and move for approval.

(2002 Code, § 2-120)

**§ 31.59 RESOLUTIONS AND MOTIONS.**

Resolutions and motions shall be introduced by the method prescribed for the introduction of ordinances. 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*