

Municipal Code of the City of Battle Creek, Nebraska

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CHAPTER 1 – ADMINISTRATIVE

Article 1 – Elected Officials

§1-101 MAYOR; SELECTION AND DUTIES.

The Mayor of the City shall be elected at the city election and shall serve a four-year term of office. Any candidate for Mayor must have resided within the City for 40 days prior to filing for the said office and in addition must be a qualified taxpayer. He shall have the general and immediate control over all city property and officials, whether elected or appointed. He shall preside at all meetings of the City Council and may vote when his vote shall be decisive and the Council is equally divided on any pending matter, legislation, or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. His signature must appear on the City Clerk's minutes of all meetings, and he must sign all resolutions which have been passed and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the Mayor may be passed over his veto by a two-thirds vote by the

members of the City Council, but if the Mayor neglects or refuses to sign any ordinance and returns it to the Council with his objections in writing at the next regular meeting, the same shall become a law without his signature. He shall from time to time communicate to the Council such information and recommendations as, in his opinion, may improve the City. He may require at reasonable intervals any city official to exhibit his accounts and make reports to the Council on any subject pertaining to his office. He shall have the power to remit fines or pardon any offense arising under the ordinances of the City. He may remove at any time an appointed police officer of the City. His territorial authority shall extend over all places within five miles of the corporate limits of the City for the enforcement of any health ordinance, and one-half mile in all matters vested in him except taxation. He shall also have such other duties as the City Council may by resolution confer upon him or any other matters which the laws of the State of Nebraska repose in him. (Ref. 17-110 through 17-117 RS Neb.)

§1-102 CITY COUNCIL; ACTING PRESIDENT.

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

§1-103 CITY COUNCIL; SELECTION.

Pursuant to Neb. Rev. Stat. §17-103, the people of the City of Battle Creek shall, beginning with the primary and general elections of 1993, elect a total of four council members to represent their interests in all matters properly before the City Council. The length of the terms of office of said council members shall be for a period of four years. (Ref. 5-108, 17-103 RS Neb.) (Am. by Ord. No. 247, 7/12/93)

§1-104 CITY COUNCIL; DUTIES.

The City Council shall be the legislative division of the city government and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Ref. 17-103, 17-104 RS Neb.)

§1-105 CITY COUNCIL; ORGANIZATION.

City Council members shall take office and commence their duties on the first regular meeting in December following their election. The newly elected council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the City Clerk shall report to

the City 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 the roll call. No person shall be eligible who is not at the time of his election an actual resident of the City, and should any City Council member move from the City, his office shall thereby become vacant. (Ref. 17-104, 17-107.01, 19-613 RS Neb.)

§1-106 VACANCY.

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. §32-560 except as provided in Neb. Rev. Stat. §32-561. (Ref. 32-560 RS Neb.)

(B) In the case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns. When the successful candidate for mayor shall be unable to assume office, the incumbent mayor shall not be entitled to hold over the term; such office shall automatically become vacant and the president of the Council shall exercise the office of mayor until such vacancy is filled. If the President of the Council assumes the office of Mayor for the unexpired term, there shall be a vacancy on the Council. (Ref. 17-107 RS Neb.)

(C) (a) Except as otherwise provided in subsection (B), (D), or (E) of this section, vacancies in city elected offices shall be filled by the Mayor and City 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 (3) public places in the City the office vacated and the length of the unexpired term.

(b) 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. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the 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. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council. All council members present shall cast a ballot for or against the nominee. 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.

(D) The Mayor and Council may, in lieu of filling a vacancy in an elected office as provided in subsection (C) of this section, call a special election to fill such vacancy.

(E) If vacancies exist in the offices of a majority of the members of the City

Council, the Secretary of State shall conduct a special city election to fill such vacancies.

(Ref. 32-569 RS Neb.) (Am. by Ord Nos. 131, 9/10/84; 215, 2/11/91; 2002-003, 7/8/02; 2009-007, 6/8/09)

§1-107 VACANCY DUE TO UNEXCUSED ABSENCES.

(A) In addition to the events listed in Neb. Rev. Stat. §32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the council unless the absences are excused by a majority vote of the remaining members. (Neb. RS 19-3101)

(B) The City Council shall take a vote on whether to excuse a member's absence from a meeting upon (1) a written request from the member submitted to the City Clerk or (2) a motion of any other council member.

(C) If a council member has been absent from six consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the City Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the Council shall set a date for a hearing and direct the City Clerk to give the member notice of the hearing by personal service or first-class mail to the member's last-known address.

(D) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the Council does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the Council. (Ord. No. 2003-015, 12/8/03)

§1-108 QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

(1) Members of the Council shall be residents and registered voters of the City. The Mayor and members of the Council shall hold no other elective or appointive office or employment with the City. Any council member who ceases to possess any of the qualifications required by this subsection or who has been convicted of a crime while in office shall forthwith forfeit such office.

(2) For purposes of this section, (a) "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 (b) "high elective office" means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

(3) No candidate for member of the Legislature or an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska 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.

(4) Except as provided in subsection (5) or (7) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

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

(6) Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

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

(8) Notwithstanding subsections (5) through (7) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed.

(Ref. 17-108.02, 19-613, 32-109, 32-603, 32-604 RS Neb.) (Ord. No. 216, 2/11/91) (Am. by Ord. No. 98-366, 1/11/99)

Article 2 – Appointed Officials

§1-201 APPOINTMENT, REMOVAL.

The Mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. The Mayor, by and with the consent of the Council, shall appoint such a number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. All police officers and other appointed officials may be removed at any time by the Mayor, except that if the City has a Water Commissioner, he or she may at any time, for sufficient cause, be removed from office by a two-thirds vote of the City Council. (Ref. 17-107, 17-541, 81-438 RS Neb.) (Am. by Ord. No. 97-325, 7/14/97)

§1-202 MERGER OF OFFICES.

The City 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 City Administrator in a city under the city administrator plan of government as provided by law may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. 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. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Ref.17-108.02 RS Neb.) (Am. by Ord. Nos. 132, 9/10/84; 214, 2/11/91)

§1-203 ADMINISTRATOR-CLERK-TREASURER POSITION CREATED.

The appointive offices of City Administrator, City Clerk and City Treasurer are hereby combined and merged in accordance with the authority granted to the City Council by Section 1-202. The office so merged and combined shall always be construed to be separate, and the effect of the combination, or merger, shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. (Am. by Ord. No. 2010-012, 10/11/10)

§1-203.01 CITY ADMINISTRATOR.

(A) The City Administrator shall be under the supervision of the Mayor at all times. He or she shall be responsible for coordinating all day-to-day administrative and operational activities of the City, including supervision of public works, recreation, and administrative personnel. He or she shall be an ex-officio member of all boards and committees for liaison purposes.

(B) The City Administrator shall maintain a current inventory of all real property and major equipment owned by the City. He or she shall be responsible for preparation of the insurance specifications for the City and send them out for bids.

(C) The City Administrator shall be responsible for the annual budget estimates and present a preliminary budget to the Mayor and Council each August. He or she shall be the City's public relations officer and handle all complaints turned in to the City. He or she shall attend all City Council meetings and shall report any matters of concern to the Council and will present studies, research and information on any matters that the Council instructs. He or she shall analyze all departments and their functions and keep the Mayor and Council updated on department standings; provide necessary information and give recommendations towards the continuous improvement of quality and output of city services; and act upon and carry out instructions of the Mayor concerning city operations.

(D) The City Administrator shall be the agent of the Mayor in the discharge of du-

ties and control of all officers and affairs of the City. He or she shall hire and fire any city employee with the approval of the Mayor and Council; hold periodic staff meetings with all department heads and employees; be the management member of the safety committee; attend meetings and seminars that further educate, aid and enable the Administrator in the performance of duties and responsibilities; answer to and do research for the Library Board, Planning Commission, and the Board of Adjustment; and work closely with the City Engineer in all public utilities improvements and maintenance, street improvements and maintenance and in city planning.

(E) The City Administrator shall evaluate all city revenues and make recommendations on rates and prices charged for all city services. He or she shall coordinate and review all employee benefits and work to continuously improve and make cost effective changes to the benefits offered; work with community organizations as to further improve and benefit the quality of life in the City; be responsible for annual safety inspections of all city departments and areas including playground equipment, vehicles and buildings, and cause obvious problems to be corrected.

(F) The City Administrator shall prepare agendas and agenda packets for the Mayor, Council, and other persons requesting agenda information. He or she shall assist city accountant(s) by providing requested information at the yearly audit; keep personnel manuals up to date and accurate according to changing laws and regulations; make periodic reports to the Council regarding current budget and spending situations; evaluate employees at scheduled evaluation intervals and make recommendations to the Mayor and Council regarding such evaluations; and work with and contact state and federal agencies in all matters regarding the City.

(G) The City Administrator shall be on-call at all times when not out of town. He or she shall belong to state and national city management associations and attend meetings of such organizations when able.
(Ord. No. 2010-012, 10/11/10)

§1-204 CITY CLERK.

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

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

(C) The City Clerk shall permit no records, public papers, or other documents of the City to be taken from his or her office except by such city officers as may be entitled

to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto and other documents incorporated by reference, arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours.

(D) The City Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at said officers, employees, or committees. With the seal of the City, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council. Within thirty (30) days after any meeting of the Council, the City Clerk shall prepare and publish the official proceedings of the City Council in a legal newspaper of general circulation in the City, which was duly designated as such by the Council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the General Fund. He or she shall then keep in a book with a proper index copies of all notices required to be published or posted by the City Clerk by order of the City Council or under the ordinances of the City. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the City Clerk's certificate under seal where the same are required to be posted only.

(E) The City Clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the City, and in the event that the said claim is disallowed in part or in whole, the City Clerk shall notify such claimant, his or her agent or attorney by letter within five days after such disallowance, and the City Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(F) The City Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council. He or she shall destroy city records under the direction of the State Records Board pursuant to Neb. Rev. Stat. §84-1201 through 84-1220; provided, the Council shall not have the authority to destroy the minutes of the City Clerk, the permanent ordinances and resolution books, or any other

records classified as permanent by the State Records Board.

(Ref. 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712 RS Neb.) (Am. by Ord. No. 243, 3/8/93)

§1-205 CITY TREASURER.

(A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The City Treasurer shall, at the end of every month and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the City Treasurer neglects or fails, for the space of ten days from the end of each month, to render his or her account, the office shall be declared vacant and the City Council shall fill the vacancy by appointment until the next election for municipal officers. (Ref. 17-606 RS Neb.)

(B) (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. Rev. Stat. §77-2201 through 77-2215. (Ref. 77-2201 RS Neb)

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

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

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

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

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

(D) The City Treasurer shall keep all money belonging to the City separate and

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

(Am. by Ord. No. 2002-004, 7/8/02)

§1-206 and §1-207 (Repealed)

§1-208 CITY ATTORNEY.

The City Attorney shall be the legal advisor of the Council. He 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. When requested, he shall attend meetings of the Council and give his opinion upon any matters submitted to him, either orally or in writing, as may be required. He shall draft or review for legal correctness ordinances, contracts, franchises and other instruments as may be required and he shall perform such other duties as may be imposed upon him by general law or ordinance. The City Council shall have the right to pay the City Attorney compensation for legal services performed by him for it on such terms as the Council and attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the City. (Ref. 17-610 RS Neb.)

§1-209 CITY PHYSICIAN.

The City Physician shall be a member of the Board of Health of the City and perform the duties devolving upon him as the medical advisor of the said board. In all injuries where a liability may be asserted against the City, the City Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He shall then report the results of his investigation with the name of the party injured and all other persons who may have personal knowledge of the matter. He shall make all physical examinations and necessary laboratory tests incident thereto and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property and the state of health of the inhabitants therein, he shall have the right at all reasonable hours to go upon and enter all premises, buildings, or other structures in the City. He shall perform such other duties as may be required of him by state laws and the ordinances of the City. When ordered to do so by the City Council, he shall disinfect or fumigate the premises or persons in or about the premises when the said premises are quarantined, and to call upon indigent sick persons and perform other professional services at the direction of the Council. The City Physician shall receive as compensation for his services such sum as the City Council may from time to time set. He shall receive no compensation for his services as a member of the City Board of Health. (Ref. 17-121 RS Neb.)

§1-210 CITY POLICE CHIEF.

The Police Chief shall direct the police work of the City and shall be responsible for the

maintenance of law and order. He shall act as Health Inspector and Building Inspector except in the event the City appoints another person. He shall file the necessary complaints in cases arising out of violations of city ordinances and shall make all necessary reports required by city ordinances or state laws. (Ref.17-107, 17-121 RS Neb.)

§1-211 CITY POLICEMAN.

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

§1-212 CITY FIRE CHIEF.

The City Fire Chief shall be elected by the members of the Fire Department and approved by the City Council. He shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He shall within two days investigate the cause, origin, and circumstances of fires arising within his jurisdiction. He shall, on or before the first day in April and October of each year, cause the secretary to file with the City Clerk and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He shall have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall

be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. (Ref. 17-147, 17-505, 35-102, 35-108, 81-506, 81-512 RS Neb.)

§1-213 SPECIAL ENGINEER.

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

§1-214 CITY UTILITIES SUPERINTENDENT.

A Utilities Superintendent shall be appointed in the event that there is more than one municipal utility and the City Council determines that it is in the best interest of the City to appoint one official to have the immediate control over all the municipal utilities, streets, parks and swimming pools. The Utilities Superintendent may be re-moved at any time by the Mayor and a majority vote of the City Council. Any vacancy occurring in the office by death, resignation, or removal may be filled in the manner herein before provided for the appointment of all municipal officials. The Utilities Superintendent's duties over the following departments shall be as stated herein:

WATER DEPARTMENT. He shall have general supervision and control over the municipal water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, and all machinery and appliances used in connection with producing and distributing water to inhabitants of the City. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the City Council may from time to time employ to maintain the system. He shall, at the request of the City Council make a detailed report on the condition of the Water Department machinery and equipment and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory water system, along with an estimate of the costs thereof. No money shall be expended for improvements, repairs, or extensions of said waterworks system except upon the recommendation of the superintendent. He shall perform such additional duties as may be prescribed by the City Council.

SEWER DEPARTMENT. The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system subject to the general control and directive of the City Council. He shall, at the

request of the City Council make a detailed report to the City Council on the condition of the sewer system, machinery, and equipment and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory sewer system, along with an estimate of the costs thereof. He shall have such other duties as the City Council may delegate to him. He shall issue permits for all connections to the municipal sewer systems and inspect and supervise all repairs made to the system.

STREET DEPARTMENT. The utilities superintendent shall, subject to the orders and directives of the City Council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the City and shall perform such other duties as the City Council may require. It shall be his responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He shall, at the request of the City Council, make a detailed report on the condition of city streets, sidewalks, culverts, alleys, and bridges and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. He shall issue such permits and assume such other duties as the City Council may direct.

ELECTRICAL DEPARTMENT. The utilities superintendent shall, subject to the orders and directives of the City Council, have general charge, direction, and control over all employees and property that make up the municipal electrical system. He shall, at the request of the City Council, make a detailed report on the condition of the municipal electrical system and all equipment therewith and shall direct its attention to such improvements, repairs extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory electrical system, along with an estimate of the costs thereof. He shall have such other duties as the City Council may delegate to him.

PARK AND SWIMMING POOL. The utilities superintendent shall have the immediate control and supervision of the city park and swimming pool, subject to the general control and directives of the City Council. He shall, at the request of the City Council, make a detailed report on the conditions of the park and swimming pool and the equipment thereon and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory park system and swimming pool, along with an estimate of the cost thereof. He shall have such other duties as the City Council may delegate to him. (Ord. No. 180, 8/08/90)

Article 3 – Bonds and Oath

§1-301 BONDS; FORM.

(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 City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided, no city official, while still in his official term of office, shall be accepted as surety on any other offi-

cial's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the City. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the City and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the said instrument by the Mayor and City Clerk pursuant to the said 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 City Council at the beginning of any city year.

(2) All surety and other bonds required by city ordinances or by Nebraska law for city officials may be provided by the purchase of a blanket bond, undertaking or equivalent insurance. The City may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by the law or by the City Council requiring such bond or undertaking and on such terms and conditions as may be required. (Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 11-204, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 233513, 39-836)

(3) All official bonds meeting the conditions herein shall be filed with the City Clerk for the 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 City Council. In the event that the sureties on the official bond of any officer of the City, in the opinion of the City Council, become insufficient, the City Council may by resolution fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the City Council to appoint a competent, qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election. (Ref. 11-103 thru 11-118, 17-604 RS Neb.) (Am. by Ord. No. 2009-007, 6/8/09)

§1-302 OATH OF OFFICE; CITY OFFICIALS.

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

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

that advocates, the overthrow of the government of the United States or of this state by force or violence. So help me God."
(Ref. 11-101 RS Neb.)

Article 4 – Corporate Seal

§1-401 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, "City of Battle Creek, Nebraska, Corporate Seal." The City Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the City Council and countersigned by the Clerk. (Ref. 17-502 RS Neb.)

Article 5 – Meetings

§1-501 DEFINED.

"Meetings" as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Ref. 84-1409(2) RS Neb.) (Am. by Ord. No. 113, 11/14/83)

§1-502 PUBLIC BODY DEFINED.

(A) "Public body" as used in this Article shall mean:

- (1) The City Council of the City,
- (2) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law, and
- (3) Advisory committees of the bodies listed above.

(B) This Article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (Ref. 84-1409(1) RS Neb.) (Am. by Ord. Nos. 113, 11/14/83: 244, 3/8/93)

§1-503 PUBLIC.

(1) 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 City Council usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the City Council and to the public by a method designated by the Council or by the Mayor if the City Council has not designated a method. Such notice shall contain the time and specific place for each meeting and ei-

ther 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.

(2) Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four (24) hours before the scheduled commencement of the meeting or (b) forty-eight (48) hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The City Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(3) 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 City Council present or absent at each convened meeting. The minutes of the City 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.

(4) Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the City Clerk shall show how each member voted, or that the member was absent and did not vote. (Ref. 84-1408, 84-1409, 84-1411, 84-1413 RS Neb.) (Am. by Ord. Nos. 113, 11/14/83; 169, 11/9/87)

§1-504 CLOSED SESSIONS.

(A) (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. Closed sessions may be held for, but shall not be limited to, such reasons as:

- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
- (b) Discussion regarding deployment of security personnel or devices;
- (c) Investigative proceedings regarding allegations of criminal misconduct; or
- (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

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

(B) 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 of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" means a collective decision of a collective commitment or promise to make a decision on any questions, 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 negotiations in closed sessions authorized under division (A)(1)(a) of this section.

(C) 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.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public.

(Neb. RS 84-1410) (Am. by Ord. Nos. 113, 11/14/83; 245, 3/8/93; 280, 3/13/95; 2005-003, 5/9/05)

§1-505 EMERGENCY.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-508 (Notice to News Media) of this Article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Ref. 84-1411 RS Neb.) (Am. by Ord. No. 113, 11/14/83)

§1-506 MINUTES.

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours. The minutes of any meeting of the City Council shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the City may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. (Ref. 84-1412, 84-1413 RS Neb.) (Am. by Ord. No. 2009-007, 6/8/09)

§1-507 VOTES.

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or

viva voce vote shall be satisfied by utilization of an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Ref. 17-616, 84-1413 RS Neb.)

§1-508 NOTICE TO NEWS MEDIA.

The City Clerk, Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. (Ref. 84-1411 RS Neb.)

§1-509 PUBLIC PARTICIPATION.

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

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

(C) Subject to the provisions of this section, the public shall have the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to Section 1-504 (Closed Sessions), 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.

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

(E) No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

(F) No public body shall, for the purpose of circumventing the provisions of this section, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(G) 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.

(H) 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 member entity of the public body is located outside of this state and the other requirements of Neb. Rev. Stat. §84-1412 are met.

(l) 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. (Ref. 84-1412 RS Neb.) (Am. by Ord. Nos. 113, 11/14/83; 143, 10/14/85; 168, 11/9/87; 2002-007, 7/8/02; 2009-007, 6/8/09)

§1-510 PROHIBITED ACTS; EXEMPT EVENTS.

(A) 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 this article or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, e-mail, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this article or the act.

(B) This article 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) (Ord. No. 2005-003, 5/9/05)

§1-511 ORDER OF BUSINESS.

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

§1-512 PARLIAMENTARY PROCEDURE.

The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the Council. When any person is called to order, he shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, prior to speaking, shall rise from his seat and address himself to the presiding officer and while speaking shall confine himself to the question. When two or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the City Clerk or any member of the City Council. Every council member who is present when a question is voted upon shall cast his vote unless excused by a majority of the Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the City Council making the motion, or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken, and entered in the minutes upon the request of any member of the City Council. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor thereof with the consent of the council member seconding the said resolution, motion, or ordinance. When in the consideration of an ordinance different times or amounts are proposed, the question shall be put on the largest sum or the longest time. A question to reconsider shall be in order when made by a member voting

with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of the said motions shall be decided without debate. Any of the rules of the City Council for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, *Robert's Rules of Order* is the authority by which the City Council shall decide all procedural disputes that may arise.

§1-513 CHANGE IN OFFICE.

The change in office shall be made as follows: The Mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held and the outgoing officers and the outgoing members of the Council shall present their reports. After the old Council has completed its business up to the said time, the outgoing members shall surrender their offices to the incoming members. The outgoing officers shall thereupon each surrender to his successor in office all property, records, papers and moneys belonging to the same. (Ref. 17-107.02(9) RS Neb.)

§1-514 ORGANIZATIONAL MEETING.

(1) The newly elected Council shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required.

(2) After ascertaining that all members are duly qualified, the Council shall then elect one of the members to be President of the Council. The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council or his or her successor in office and of each officer elected to any office to qualify prior to the first regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, and the laws of the City and to perform faithfully and impartially the duties of his or her office, said oath to be filed in the office of the City Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon.

(3) At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the Council may by ordinance or resolution create. The membership of such standing committees may be changed at any time by the Mayor. The Mayor shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one year, unless re-appointed.

§1-515 ATTENDANCE.

The Mayor and City Council shall have the power to employ any reasonable and effective means to compel the attendance of members absent from regular or special meetings of the Council. If any council member neglects or fails to attend two consecutive regular meetings of the City Council without first obtaining a written excuse from the Mayor for such absences, his or her office shall be declared vacant and such vacancy shall be filled by appointment in accordance with Section 1-106 herein.

§1-516 REGULAR MEETING.

(1) The meetings of the City Council shall be held in the City Hall. Regular meetings shall be held on the second Monday of each month at the hour of 7:00 p.m.

(2) Special meetings may be called by the Mayor or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the City Clerk. On filing the call for a special meeting, the Clerk shall notify the council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a council member known to be out of the state or physically unable to be present.

(3) A majority of all members of the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

(4) 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 City Council members shall elect a President pro tempore.

(Ref. 17-105, 17-106 RS Neb.) (Ord. No. 144, 10/14/85) (Am. by Ord. No. 96-312, 3/11/96)

§1-517 SPECIAL MEETING.

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

procedures set forth in Chapter 1, Article 6 herein. (Ref. 17-106 RS Neb.) (Ord. No. 144, 10/14/85)

§1-518 VIDEOCONFERENCING.

(A) A meeting of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

(1) Reasonable advance publicized notice is given;

(2) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;

(3) At least one copy of all documents being considered is available to the public at each site of the videoconference;

(4) At least one member of the governing body or advisory committee is present at each site of the videoconference; and

(5) No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

(B) Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act. (Neb. RS 84-1411)

(C) For the purpose of this section, the following definition applies.

"Videoconferencing" shall mean conducting a meeting involving participants at two or more locations through the use of audio/video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be responsible at all meeting locations. (Neb. RS 84-1409)
(Ord. No. 97-326, 7/14/97) (Am. by Ord. No. 2005-003, 5/9/05)

§1-519 TELECONFERENCING.

(A) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

(1) The territory represented by the member public agencies of the entity or pool covers more than one county;

(2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;

(3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity pool or at a place which will accommodate the anticipated audience;

(4) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(5) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(6) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(7) The telephone conference call lasts no more than one hour; and

(8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall be not used to circumvent any of the public government purposes established in the Open Meetings Act.

(Ref. 84-1411 RS Neb.) (Ord. No. 2005-003, 5/9/05)

Article 6 – Ordinances, Resolutions, and Motions

§1-601 GRANT OF POWER TO CITY COUNCIL.

The City Council may make all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be expedient for maintaining the peace, good government, and welfare of the City and its trade, commerce, and manufactories. (Ref. 17-505 RS Neb.) (Am. by Ord. No. 97-327, 7/14/97)

§1-602 ORDINANCES; INTRODUCTION.

Ordinances shall be introduced by members of the City Council in one of the following ways:

(A) With the recognition of the Mayor, a member may, in the presence and hearing of a majority of the City Council, read aloud the substance of the proposed ordinance and file a copy with the City Clerk for future consideration; or

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk who, in the presence and hearing of a majority of the City Council, shall read aloud the substance of the ordinance and file it for future consideration.
(Am. by Ord. No. 97-328, 7/14/97)

§1-603 RESOLUTIONS AND MOTIONS; PROCEDURE.

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

§1-604 ORDINANCES; STYLE.

The style of all city ordinances shall be: "Be it ordained by the Mayor and Council of the City of Battle Creek, Nebraska:" (Ref. 17-613 RS Neb.)

§1-605 ORDINANCES; TITLE.

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

§1-606 ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS; READING; PASSAGE.

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City Council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the City Council may require a reading of any ordinance in full before enactment under either procedure set out in this section. 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 of the City Council. On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members of the Council shall be required. All appointments of the officers by the City Council shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by utilization of an electronic voting device which allows the "yeas" and "nays" of each member of the City Council to be readily seen by the public. (Ref. 17-614, 17-616 RS Neb.) (Am. by Ord. Nos. 281, 3/13/95; 97-329, 7/14/97)

§1-607 ORDINANCES; PUBLICATION OR POSTING.

All ordinances of a general nature shall, before they take effect, be published one time within 15 days after they are passed, (1) in some newspaper published in the City or, if

no paper is published in the City, then by posting a written or printed copy in each of three public places in the City; or (2) In book or pamphlet form. (Ref. 17-611 RS Neb.) (Am. by Ord No. 97-330, 7/14/97)

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

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

§1-609 ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES.

(A) Except as provided in subsection (B) of this section, an ordinance for the government of the City which has been adopted by the City Council without submission to the voters of the City shall not go into effect until 15 days after the passage of the ordinance.

(B) In the case of riot, infectious or contagious diseases, or 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 the posting thereof in at least three of the most public places in the City. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council, and be entered of record on the City Clerk's minutes.

(Ref. 17-613, 19-3701 RS Neb.) (Am. by Ord. No. 97-331, 7/14/97)

§1-610 ORDINANCES; AMENDMENTS AND REVISIONS.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the City and modifications to zoning or building districts may be adopted as otherwise provided by law. (Ref. 17-614 RS Neb.) (Am. by Ord. No. 97-332, 7/14/97)

Article 7 – Elections

1-701 ELECTIONS; GENERALLY.

(A) All municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. (Neb. RS 32-556)

(B) When the City holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the City shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the City. (Neb. RS 32-404)

(Am. by Ord. No. 2005-003, 5/9/05)

§1-702 PRIMARY ELECTION; NUMBER OF CANDIDATES FILING.

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

§1-703 TIE VOTES.

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Ref. 17-107.02(6) RS Neb.)

§1-704 FILING FEE.

Prior to the filing of any nomination papers, there shall be paid to the City Treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or an office for which there is a salary of less than \$500.00 per year. No nominating papers shall be filed until the proper City Treasurer's receipt, showing the payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Ref. 32-513 RS Neb.)

§1-705 PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

(A) (1) 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. Rev. Stat. §32-621 or by nomination by political party convention or committee.

(2) 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. Rev. Stat. §32-625(2) and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in Neb. Rev. Stat. §32-615. (Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the City, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. Rev. Stat. §32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan 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 ward in which the officer is to be elected or in the City, as appropriate.

(2) 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 2000.

(Neb. RS 32-618) (Am. by Ord. Nos. 133, 9/10/84; 98-367, 1/11/99; 2003-015, 12/8/03)

§1-706 SPECIAL ELECTIONS.

(A) (1) Except as provided in Neb. Rev. Stat. §77-3444, an issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. Any other special election shall be subject to division (B) of this section.

(2) In lieu of submitting the issue at a special election, the City may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the City Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council.

(Neb. RS 32-559)

(B) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. (Neb. RS 32-405)

(Am. by Ord. Nos. 133, 9/10/84; 97-333, 7/14/97; 2004-001, 1/12/04)

§1-707 SPECIAL MUNICIPAL.

A special city election may be held upon notice of such election being prepared and published by the City Clerk, except as otherwise provided by law, not less than five days nor more than ten days prior to any special election. Such elections shall be conducted in accordance with the Municipal Election Code, Neb. Rev. Stat. §19-3001, et. seq. (Ref. 19-3003, 19-3006 RS Neb.)

§1-708 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or the County Clerk on forms prescribed by such official the name of the city, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Neb. RS 32-404) (Ord. No. 2005-003, 5/9/05)

§1-709 (Repealed)

§1-710 BALLOTS.

It shall be the duty of the City Clerk to provide printed ballots for each city election, including special ballots, whenever any measure, proposition, or issue is submitted to a vote of the electors. Upon each ballot shall be printed the name of every candidate whose nomination has been properly certified by caucus or who has been properly nominated by petition. The separate ballot for any measure, proposition, or issue submitted to a vote of the electors shall state the proposition submitted in clear and concise language. (Ref. 19-3018, 19-3019 RS Neb.)

§1-711 RECOUNT OF BALLOTS.

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

§1-712 RECALL PROCEDURE.

(A) For purposes of this section, "filing clerk" means the Election Commissioner or County Clerk. (Neb. RS 32-1301)

(B) (1) The Mayor, a member of the City Council, and any other elected official of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

(2) The recall procedure and special election provisions of such sections shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general

election, the recall provisions shall apply to the registered voters at the general election. (Neb. RS 32-1302)

(C) (1) A petition demanding that the question of removing the Mayor, a member of the City Council, or any other elected official of the City be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for an office for which more than one candidate is chosen, 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. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. Rev. Stat. §32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official received the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petition.

(5) Petition signers shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question. (Neb. RS 32-1303)

(D) Each petition paper shall conform to the requirements of Neb. Rev. Stat. §32-1304.

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after he or she issues the initial petition papers to the principal circulator or circulators.

(2) Within 15 days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. (Neb. RS 32-1305)

(F) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the City within 90 days of the expiration of the five-day period, the Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held. (Neb. RS 32-1306)

(G) The form of the official ballot at a recall election shall conform to the requirements of Neb. Rev. Stat. §32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) of this section.

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and state law.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot filed a written statement with the Election Commissioner or County Clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of her or her term in office.

(Neb. RS 32-1309)

(l) No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office. (Neb. RS 32-1309)
(Am. by Ord. Nos. 133, 9/10/84; 2003-015, 12/8/03; 2004-001, 1/12/04)

§1-713 CANDIDATE QUALIFICATIONS.

Any person seeking elected 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 public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. (Ref. 17-108.02, 32-4,157 RS Neb.) (Ord. No. 133, 9/10/84)

§1-714 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. (Ref. 32-1221 RS Neb.) (Ord. No. 149, 10/14/85)

Article 8 – Fiscal Management

§1-801 FISCAL YEAR.

The fiscal year of the City and any public utility of the City commences on October 1 and extends through the following September 30 except as provided in the City Proprietary Function Act. (Ref. 17-701 RS Neb.) (Am. by Ord. No. 96-313, 3/11/96)

§1-801.01 PUBLIC FUNDS DEFINED.

“Public funds” shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a city which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the city from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Ref. 13-503 RS Neb.) (Ord. No. 282, 3/13/95)

§1-802 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The City Council shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately states as to each such source: The

unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately states as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items.

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 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 (a) for the purpose of paying the principal or interest on bonds issued by the City Council and (b) for all other purposes;

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions, which are not included in the budget statement. Such proprietary functions shall have a separate statement, which is approved by the City Council as provided in the Municipal Proprietary Function Act.

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

(C) The City shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources. (Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount of be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Neb. RS 13-505)
(Am. by Ord Nos. 134, 9/10/84; 255, 7/11/94; 97-334, 7/14/97; 98-369, 1/11/99; 2001-004, 6/11/01; 2003-

**§1-803 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION;
CERTIFICATION OF TAX AMOUNT.**

(A) The City Council shall each year conduct a public hearing on its 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.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept for 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 (1) the amount to be applied to the payment of principal or interest on bonds issued by the City Council and (2) the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such change 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. (Neb. RS 13-506)

(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. (Neb. RS 13-507)
(Am. by Ord. Nos. 98-370, 2/8/99; 2003-015, 12/8/03)

**§1-804 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF
AMOUNT OF TAX.**

(1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the City Council and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

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

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

(4) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Ref. 13-506, 13-507, 13-508 RS Neb.) (Am. by Ord. Nos. 256, 7/11/94; 96-305, 3/11/96; 97-335, 7/14/97; 98-371, 2/8/99)

§1-804.01 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(1) On and after the first day of its fiscal year in 1993 and of each succeeding year and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the City. Except as provided in subsection (2) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the City to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the City in excess of that authorized by any other statutory provision. (Ref. 13-509.01, 13-509.02 RS Neb.) (Ord. No. 283, 3/13/95)

§1-805 BUDGET MANUAL; INCORPORATED BY REFERENCE.

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

§1-806 APPROPRIATIONS.

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Ref. 17-706 RS Neb.) (Am. by Ord Nos. 258, 7/11/94; 96-306, 3/11/96)

§1-806.01 REVISION OF BUDGET.

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

(1) There are circumstances which could not reasonably have been anticipated at the time of budget for the current year was adopted;

(2) The budget adopted violated Neb. Rev. Stat. §13-518 to §13-522, such

that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §13-518 to §13-522; or

(3) The Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

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

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, that body shall file with the County Clerk of the county in which such Council is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

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

(Ord. No. 2002-011, 8/12/02) (Am. by Ord. No. 2003-015, 12/8/03)

§1-807 ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRA-ORDINARY LEVIES.

(1) The City Council has decided to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the City.

(2) The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The City Council shall allocate the amount raised by the all-purpose levy to the several departments of the City in its annual budget and appropriation ordinance or in other legal manner as the City Council deems wisest and best.

(3) The City shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

(4) Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the City may be made by the City in addition to the all-purpose levy. (Ref. 19-1309 through 19-1312 RS Neb.) (Am. by Ord. No. 98-375, 2/8/99)

§1-808 through §1-811 (Repealed)

§1-812 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the City which the City requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. Rev. Stat. §77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702. (Ref. 17-702 RS Neb.) (Am. by Ord. No. 98-372, 2/8/99)

§1-813 EXPENDITURES.

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

§1-814 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(1) Except as provided in Neb. Rev. Stat. §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 enlargement or improvement is assessed to the property, costing over \$30,000.00 shall be made unless it is first ap-

proved by the City Council.

(2) Except as provided in Neb. Rev. Stat. §18-412.01, before the City Council makes any contract in excess of \$30,000.00 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 enlargement 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 subsections (3) and (5) of this section, the City Council may publish the amount of the estimate.

(3) Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into (a) 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 enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(4) 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:

- (a) \$30,000.00 or less;
- (b) \$60,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00;
- (c) \$90,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000.00; or
- (d) \$120,000.00 or less and the electric utility has gross annual revenue from retail sales in excess of \$10,000,000.00.

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

(6) If, after advertising for bids as provided in this section, the City 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.

(7) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing 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.

(8) Any city bidding procedure may be waived by the City Council (a) 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 sections Neb. Rev. Stat. §81-145 to §81-162 or (b) when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503.

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

(a) "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; and

(b) "Purchasing" or "purchase" means the obtaining of personal property by sale, lease, or other contractual means.

(Ref. 17-568.01, 17-568.02, 18-1756 RS Neb.) (Am. by Ord. Nos. 114, 11/14/83; 98-351, 11/9/98; 2009-007, 6/8/09)

§1-815 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(1) The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City Council. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council.

(2) All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report. Such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

(3) The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the City Clerk and shall become a part of the public records of his or her office and will at all times thereafter be open for public inspection. One copy shall be filed with the Auditor of Public Accounts in a form prescribed by him.

(4) The unaudited statement of cash receipts and disbursements shall become a part of the public records of the City Clerk and shall at all times thereafter be open and subject to public inspection. Every governing body that is required herein to submit to an audit of its accounts 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.

(Ref. 19-2901 through 19-2909 RS Neb.) (Am. by Ord. No. 135, 9/10/84)

§1-816 CLAIMS.

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

§1-817 WARRANTS.

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

§1-818 SPECIAL ASSESSMENT FUND.

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

§1-819 SINKING FUNDS.

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

(2) To initiate the said sinking fund, the City 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 said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the City.

(3) The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the City Treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City 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.

(Ref. 19-1301 through 19-1304, 77-2337, 77-2339 RS Neb.)

§1-820 DEPOSIT OF FUNDS.

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

(2) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (a) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (b) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. (Neb. RS 17-607)

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

(4) Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 17-607, 77-2362)

(Am. by Ord. Nos. 98-377, 2/8/99; 2002-008, 7/8/02; 2003-015, 12/8/03; 2004-001, 1/12/04)

§1-820.01 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

(1) The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the state of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the manner provided for cities of the first class in Neb. Rev. Stat. §16-714 to §16-716. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §7-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Ref. 17-720 RS Neb.)

(2) For the security of the fund so deposited, the City Treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the City and be approved by the Mayor. The bond shall be conditioned that such a depository shall, at the end of every quarter, render to the Treasurer a statement in duplicate, showing the several daily balances, the amount of money of the City held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this section and all regulations imposed by law or adopted by the City Council for the receiving and holding thereof and shall faithfully discharge the trust reposed in the depository. The bond shall be as nearly as practicable in the form provided in Neb. Rev. Stat. §77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. The bond shall be deposited with the City Clerk.

(3) In lieu of the bond required by subsection (2) of this section, any bank or capital stock financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the City Clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured by the Federal Deposit Insurance Corporation.

(4) 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 FDIC plus one-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 such bank or capital stock financial institution shall not in either case exceed the amount insured by the FDIC 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 subsection (2) of this section or which has, in lieu of a surety bond, given security as provided in subsection (3) of this section. (Ref. 17-720, 16-714 through 16-716 RS Neb.)

(Ord. No. 98-378, 2/8/99) (Am. by Ord. No. 2002-010, 8/12/02)

§1-821 INVESTMENT OF FUNDS.

The City Council may, by resolution, direct and authorize the City Treasurer to invest surplus funds in the outstanding bonds or registered warrants of the City and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Ref. 17-608, 17-609, 21-1316.01, 77-2341 RS Neb.)

§1-822 BOND ISSUES.

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by state law. (Ref. 10-201 through 10411, 10-601 through 10-614, 12-1001, 17-529.01, 17-52-9.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836 RS Neb.)

§1-823 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

Pursuant to the City Proprietary Function Act, the City Council may prepare a proprietary budget statement for its proprietary functions separate and apart from its city budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing. Any income from a proprietary function which is transferred to the general fund of the City shall be shown as a source of revenue in the city budget statement created pursuant to the Nebraska Budget Act. (Ref. 18-2803 to 18-2808 RS Neb.) (Ord. No. 257, 7/11/94)

§1-824 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(1) The City shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(2) The City shall (a) file notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and (b) file a release of assessment upon final payment of each assessment with the Register of Deeds.

(Ref. 18-1216 RS Neb.) (Ord. No. 97-336, 7/14/97)

§1-825 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with the levying board on or before October 14 of each year and file with the Auditor of Public Accounts 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 City Council with the adopted budget statement filed as otherwise required by law. 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. The City Council shall use the final adjusted values as provided by the County Assessor pursuant to Neb. Rev. Stat. §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 subsection.

(2) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the City at least five days prior to the hearing. The hearing notice shall contain the following information: The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request. Any resolution setting a tax request under this subsection shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply. Any tax levy which is not in compliance with this subsection and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.

(Ref. 13-508, 77-1601.02 RS Neb.) (Ord. No. 97-337, 7/14/97) (Am. by Ord. No. 98-374, 2/8/99)

§1-826 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the City for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in subsection (C). The City may levy a maximum of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the City's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. Rev. Stat. §51-201, museum pursuant to Neb. Rev. Stat. §51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. Rev. Stat. §71-1637, or statue, memorial, or monument pursuant to Neb. Rev. Stat. §80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the City which require or obligate it to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the City, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this subsection (A). The limitations on tax levies in this subsection (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. Rev. Stat. §77-1606 unless approved under subsection (C). (Ref. Neb RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-Street Parking District Act may be allocated property taxes as authorized by law which are authorized by the City and are counted in the municipal levy limit provided by subsection (A), except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower costs to the public airport. For off-street parking districts established under the Off-Street Parking District Act, the tax shall be counted in the allocation by the City proportionally, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the City multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection (B). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the City may be exceeded as provided in subsection (C).

(2) On or before August 1, all political subdivisions subject to municipal levy authority under this subsection (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. Rev. Stat. §77-3444 to exceed the final levy allocation as determined in this subsection (B).

(3) (a) The City Council shall adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

(b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

(Neb. RS 77-3443)

(C) (1) The City may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year, which is to be the first to exceed the limits.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner requesting an election signed by at least 5% of the registered voters residing in

the City.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in subsection (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. Rev. Stat. §32-628 through §32-631.

(5) Any excess levy authority approved under this subsection (C) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in subsection (C) (8), whichever is earliest.

(6) The City Council may pass no more than one resolution calling for an election pursuant to this subsection (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this subsection (C). The ballot questions may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. Rev. Stat. §77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limitations in subsection (A), but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax.

(8) (a) The city may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(b) The City Council may call for the submission of the issue to the voters (i) by passing a resolution calling for the rescission or modification by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner; or (ii) upon request of a petition by the County Clerk or Election Commissioner requesting an election signed by at least 5% of the registered voters residing in the City.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The Coun-

ty Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. Rev. Stat. §32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act. (Neb. RS 77-3444) (Ord. No. 98-373, 2/8/99; 2003-015, 12/8/03)

§1-827 CREDIT CARDS AND ELECTRONIC FUNDS TRANSFERS; AUTHORITY TO ACCEPT.

(A) The City Council may authorize municipal officials to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind of nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

(B) The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, or electronic funds transfer shall be collected by the municipal officials.

(C) With respect to a facility which it operates in a proprietary capacity, the City Council may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

(D) The municipal officials shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

(E) The City Council may choose to participate in the state contract for such payment services. If the Council chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and any negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services.

(F) When authorizing acceptance of credit card or charge card payments, the City Council shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the City, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under subsection (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the City by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made elec-

tronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal officials shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(G) For purposes of this section, "electronic funds transfer" means the movement of funds by non-paper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (Neb. RS 13-609) (Ord. No. 98-352, 11/9/98; 2003-015, 12/8/03)

Article 9 – Compensation

§1-901 CITY OFFICIALS; GENERALLY.

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

§1-902 SALARIES OF ELECTED OFFICIALS.

The Mayor and City Council members shall be entitled to receive such salary and compensation as may be set by the Council from time to time. Such amounts shall be on file in the office of the City Clerk for public inspection during office hours.

§1-903 SALARIES OF APPOINTED OFFICIALS.

The salaries and wages of the appointed officials and employees of the City shall be set from time to time by the Mayor and City Council. Such job titles and corresponding compensation shall be published annually and shall be on file in the office of the City Clerk for inspection during office hours.

§1-904 CONFLICT OF INTEREST; DEFINED.

A conflict of interest exists in a matter before an official for consideration or determination if:

(1) The public official has a substantial financial or substantial personal interest in the outcome or as owner, member, partner, officer, employee, stockholder or other professional enterprise that will be affected by the outcome; and such interest is or may be adverse to the public interest in the proper performance of governmental duties by the official.

(2) He has reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity.

(3) The public official, because of bias or prejudice, or because he has prejudged a matter set for public hearing, is incapable because of such bias, prejudice or pr judgment of granting to the matter before him a fair and impartial hearing.
(Am. by Ord. Nos. 115, 11/14/83; 128, 6/11/84)

§1-904.01 CONFLICT OF INTEREST; DISCLOSURE, VOTING, ETC.

(1) Any council member who has a conflict of interest, as defined herein, in any matter before the City Council, shall disclose such fact on the records of the Council and refrain from participating in any discussion or voting thereon, provided that such exceptions shall be observed as is permitted by law. This provision shall not apply if a council member has disqualified himself from voting.

(2) Any member of any official board, commission or committee who has a conflict of interest, as defined herein, in any matter before the body of which he is a member shall disclose such fact on the records of such board, commission or committee and refrain from participating in any discussion or voting thereon, provided that such exceptions shall be observed as are permitted by law.
(Ord. No. 128, 6/11/84)

§1-904.02 DISCLOSURE OF SPECIAL INTEREST.

Any employee who has a financial or other special interest in a matter before the City Council or any board, commission, or committee and who participates in discussion with or gives an official opinion to the Council or to such board, commission, or committee relating to such matter shall disclose on the records of the Council or such board, commission or committee, as the case may be, the nature and extent of such interest. (Ord. No. 128, 6/11/84)

§1-904.03 COMPLIANCE WITH STATE LAW.

Public officials and employees of the City shall comply with applicable provisions of state law relative to conflicts of interest and generally regulating the conduct of public officials and employees. (Ord. No. 128, 6/11/84)

§1-904.04 OFFICER DEFINED.

For the purposes of Sections 1-904.04 through 1-904.11 of this Article, "officer" shall mean any member of any board or commission of the City; any appointed official if such official serves on a board or commission which spends and administers its own funds and is dealing with a contract made by such board or commission; or any elected city official. For the purposes of such sections, volunteer firefighters and ambulance drivers shall not be considered officers with respect to their duties as firefighters and ambulance drivers. (Ord. No. 128, 6/11/84)

§1-904.05 CONFLICT OF INTEREST INVOLVING CONTRACTS.

(A) (1) "Business association" means a business:

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

- (b) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest.

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

(Ref. 49-1408 RS Neb.)

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

(3) "Officer" means:

- (a) A member of any board or commission of the City which spends and administers its own funds, who is dealing with a contract made by such board or commission; or
- (b) Any elected municipal official.

"Officer" does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

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

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

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

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

- (1) Makes a declaration on the record to the City Council responsible for ap-

proving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

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

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

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

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

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

(G) Neb. Rev. Stat. §49-14,102 shall not apply to contracts covered by this section. (Ref. 49-14,103.01 RS Neb.)

(H) (1) The City Clerk shall maintain separately from other records a ledger containing the information listed in subdivisions (a) through (e) of this division (H) (1) about every contract entered into by the governing body in which an officer of the body has an interest as specified in Section 1-909 and for which disclosure is made pursuant to division (C) of this section. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

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

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

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed

within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. (Ref. 49-14,103.03 RS Neb.)

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

(K) The City Council may exempt from divisions (A) through (I) of this section, contracts involving \$100.00 or less in which an officer of such body may have an interest. (Ref. 49-14,103.06 RS Neb.) (Ord. No. 128, 6/11/84; 2002-006, 7/8/02)

§1-904.06 and §1-904.07 (Repealed)

§1-904.08 PERMITTED CONTRACTS WITH OFFICERS NOT EXEMPT FROM COMPETITIVE BIDDING, ETC., REQUIREMENTS.

Notwithstanding the provisions of Sections 1-908 through 1-912, if an officer's parent, spouse or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to Section 1-909, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. (Ord. No. 128, 6/11/84)

§1-904.09 COMPETITIVE BIDDING.

Notwithstanding any other provision of this section, any contract entered into with an interested officer of the City shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City. (Ord. No. 128, 6/11/84)

§1-904.10 (Repealed)

§1-904.11 OPEN ACCOUNT DEEMED A CONTRACT.

An open account established for the benefit of the City or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of section 1-904.04 through 1-904.11. The statement required to be filed pursuant to section §1-904.05 shall be filed within ten days after such account is opened. Thereafter, the Clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of sections 1-904.04 through 1-904.11. (Ord No. 128, 6/11/84)

Article 10 – Initiative and Referendum

[Editor's Note: Article 10 was adopted by Ord. No. 109, 5/9/83;
Sections 1-1001 thru 1-1005, 1-1008 thru 1-1014 were amended by Ord. No. 136, 9/10/84]

§1-1001 DEFINITIONS.

The powers of initiative and referendum are reserved to the qualified electors of the City by state law. This Article shall govern the use of initiative to enact and the use of referendum to amend or repeal measures affecting the governance of the City. For purposes of this Article, the definitions set out in this Section, unless the context otherwise requires, shall apply.

“Circulator” shall mean any person who solicits signatures for an initiative or referendum petition.

“Clerk” shall mean the City Clerk or the city official in charge of elections.

“Governing body” shall mean the legislative authority of the City.

“Measure” shall mean an ordinance, charter provision, or resolution which is within the legislative authority of the City Council to pass, and which is not excluded from the operation of referendum by the exceptions in Section 1-1013.

“Municipality” shall mean the City of Battle Creek, Nebraska.

“Petition” shall mean a document authorized for circulation pursuant to Section 1-1002, or any copy of such document.

“Place of residence” shall mean 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” shall mean 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” shall mean 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.

“Residence” shall mean that place at which a person has established his or her home, where he or she is habitually present, and to which, when he or she departs, he or she intends to return.

“Signature sheet” shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.
(Ref. 18-2501 thru 18-2511 RS Neb.)

§1-1002 PETITIONS, BALLOTS.

(A) Before circulating an initiative or referendum petition, the petitioner shall file with the City 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, as described below. 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 peti-

tion 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, City Council, or City that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

(B) The ballot title of any measure to be initiated or referred shall consist of:

(1) A briefly-worded caption by which the measure is commonly known or which accurately summarizes the measure;

(2) A 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

(3) A concise and impartial statement, of not more than 75 words, of the chief purpose of the measure.

(C) 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 nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization. (Ref. 18-2512, 18-2513 RS Neb.)

§1-1003 PETITION FORM.

(A) The forms designed by the Secretary of State to be used for initiative and referendum petitions shall be made available to the public by the City 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 City Clerk. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted. (Neb. RS 18-2514)

(B) Each petition presented for signature must be identical to the petition authorized for circulation by the City Clerk. 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 the statement specified to be on part of the ballot title. When a special election is being requested, such fact shall be stated on every petition. (Neb. RS 18-2515) (Am. by Ord. No. 2004-001, 1/12/04)

§1-1003.01 DECLARATORY JUDGMENT.

(A) The City or any chief petitioner may seek a declaratory judgment regarding any questions arising under this Article, as it may be from time to time amended, 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 City Clerk. If the City seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served.

(B) 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 City Council received notification from the verifying official that the necessary signatures have been obtained. 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 such notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this Article. If the City does file such an action prior to receiving such notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action.

(C) Any action for a declaratory judgment shall be governed generally by Neb. Rev. Stat. §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, City Clerk, City Council, or any of the City's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearing and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election.

(D) The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

(Neb. RS 18-2538) (Am. by Ord. No. 2004-001, 1/12/04)

§1-1004 SIGNATURE SHEETS.

(A) Every signature sheet shall:

(1) Contain the caption required in subdivision (A) of Section 1-1002 of this Article;

(2) Be part of a complete and authorized petition when presented to potential signatories;

(3) Provide space for signatories to write their names, residential addresses, and the date of signing; and

(4) Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

(B) 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, his or her place of residence, and the date of signing. No signatory shall use ditto marks as a means of affixing his or her place of residence or date on any petition. A wife shall not use her husband's Christian or given name when she signs a petition and she shall sign her own Christian or given name along with her surname.

(Ref. 18-2516 RS Neb.)

§1-1005 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 in the affected jurisdiction at the time he or she signed the petition and that the circulator believes that each signatory has stated his or her name and place of residence correctly. (Ref. 18-2517 RS Neb.)

§1-1006 PETITIONS, NOTIFICATION.

(A) Signed petitions shall be filed with the Clerk for signature verification. Upon the filing of a petition, and passage of a resolution by the City Council, the City and the County Clerk or Election Commissioner may by mutual agreement provide that the County Clerk or Election Commissioner shall ascertain whether the petition is signed by the requisite number of voters. The City shall reimburse the County for any costs incurred by the County Clerk or Election Commissioner. When the verifying official has determined that 100% of the necessary signatures required by this Article have been obtained, he or she shall notify the City Council of that fact, and shall immediately forward to the City Council a copy of the petition.

(B) In order for an initiative or referendum proposal to be submitted to the City 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. (Ref. 18-2518 RS Neb.)

§1-1007 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 do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt. (Ref. 18-2519 RS Neb.)

§1-1008 DIRECT VOTE.

The Mayor and City Council may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before them, passed by them, including an override of any veto, if necessary, or enacted by the electors under this Article 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 Article 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. (Ref. 18-2520 RS Neb.)

§1-1009 ELECTIONS.

(A) The Clerk shall call elections under this Article either at a special election or regularly scheduled primary or general election. He or she shall cause notice of every such election to be printed in one or more newspapers of general circulation in such City at least once not less than 30 days prior to such election and also posted in the office of the Clerk and in at least three conspicuous places in such City at least 30 days prior to such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the ____ day of _____, 20____, at (identify polling place or precinct) of the City of Battle Creek, 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: (naming 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 _____, 20____.

Clerk of the City of Battle Creek,
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.

(Ref. 18-2521 RS Neb.)

§1-1010 BALLOTS.

All ballots for use in special elections under this Article shall be prepared by the Clerk and furnished by the City Council, unless the Council contracts with the County for such service, and shall be in form the same as provided by law for election of the Mayor and City Council. When ordinances under such sections 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 Article. (Ref. 18-2522 RS Neb.)

§1-1011 INITIATIVE.

(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 except if 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 thereof, which is not subject to referendum or subject only to limited referendum pursuant to Section 1-1013 .

(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 City Council to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the City 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 City 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 Section 1-1007, it shall be the duty of the City Council to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the City 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 City Council received notification pursuant to Section 1-1007.

(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 City 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 City Council. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

(Ref. 18-2523 through 18-2526 RS Neb.)

§1-1012 REFERENDUM LIMITATIONS.

(A) The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting to governance of the City. (Neb. RS 18-2527)

(B) 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 July 17, 1982;

(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 Nebraska 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 City Council and approved by its Mayor;

(5) Measures relating to projects for which notice has been given as provided for in division (E) of this section 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 Neb. Rev. Stat. §18-2524 and 18-2529;

(7) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in Neb. Rev. Stat. §18-2526.

(8) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by the City and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(9) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in Neb. Rev. Stat. §19-905;

(10) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(11) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(C) 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 or 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 municipal employees other than the members of the City Council and the Mayor; and

(4) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by the City except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(D) Measures subject to limited referendum shall ordinarily take effect 30 days after their passage by the City 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 Neb. Rev. Stat. §18-2518 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 subdivision (E) (3) of this section. If the necessary number of signatures as provided in Neb. Rev. Stat. §18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(E) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, the City may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in this Article by the following procedure:

(1) 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 or general circulation within the City;

(2) 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

(3) After passage of such measure, including an override of a veto, if necessary, by giving notice as follows:

(a) 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; and

- (b) 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 subdivision 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 City Council, including an override of a veto, if necessary, of a measure approving the project. The right of the City to hold such a hearing prior to the passage of the measure by the Council and give such notice after passage of such measure to obtain exemption for any particular project in a manner described in this division is optional, and the City shall not be required to hold such a hearing or give such notice for any particular project.

(F) Nothing in divisions (C) and (E) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(G) All measures, except as provided in divisions (B), (C), and (E) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the City Council, including an override of a veto, if necessary, or enacted by the voters by initiative. (Neb. RS 18-2528)
(Am. by Ord. Nos. 246, 3/8/91; 2001-006, 6/11/01; 2003-015, 12/8/03)

§1-1013 REFERENDUM, PASSAGE.

(A) 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 Section 1-1007, it shall be the duty of the City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the City Council fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the City Council receives notification pursuant to Section 1-1007, 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 City 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 City 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.

(B) 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 City Council to reconsider the measure or portion of such measure which is the object of the referendum. If the City Council fails to repeal or amend the measure or portion thereof, 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 City Council received notification. The date of such special election shall not be less than 30 nor more than 60 days from the date the City Council received notification.

(C) If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the City Council. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

(Ref. 18-2529 through 18-2531 RS Neb.)

§1-1014 VIOLATIONS, PENALTIES.

(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. Rev. Stat. §18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

(B) Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to Neb. Rev. Stat. §18-2501 through 18-2531 shall be guilty of a Class I misdemeanor with a limit of \$500.00 on the fine.

(C) Whoever signs any petition under Neb. Rev. Stat. §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 \$300.00 on the fine.

(D) Any clerk who willfully refuses to comply with the provisions of Neb. Rev. Stat. §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 I misdemeanor but imprisonment shall not be included as part of the punishment.

(Ref. 18-2532 through 18-2535 RS Neb.) (Am. by Ord. No. 116, 11/14/83)

§1-1015 APPLICABILITY.

(A) The provisions of the statutes of the State of Nebraska relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, in-

formation 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 Article.

(B) Nothing in this Article shall apply to procedures for initiatives or referendums provided in Neb. Rev. Stat. §18-412 and 18-412.02 relating to city light and power plants, §70-504, 70-650.01 and 70-650.02 relating to public power districts, and §80-203 to 80-205 relating to soldiers' and sailors' monuments.

(Ref. 18-2536, 18-2537 RS Neb.)

Article 11 – Personnel Policy

§1-1101 ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, procedures and requirements for orderly and efficient relations with the City employees, the Personnel Policy of the City of Battle Creek, adopted by resolution and printed in book or pamphlet form is hereby incorporated by reference as though printed in full herein insofar as said policy does not conflict with the statutes of the State of Nebraska. Three copies of the Personnel Policy are on file at the office of the City Clerk and are available for public inspection during office hours.

Article 12 – Intergovernmental Risk Management

§1-1201 AGREEMENT WITH OTHER PUBLIC AGENCY.

(A) PUBLIC AGENCY means any county, city, village, school district, public power district, rural fire district, or other political subdivision of this State, the State of Nebraska, the University of Nebraska, and any corporation whose primary function is to act as an instrumentality or agency of the State of Nebraska. (Ref. 44-4303 RS Neb.)

(B) The City Council and any one or more public agencies may make and execute an agreement providing for joint and cooperative action in accordance with the Intergovernmental Risk Management Act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverage's in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

(1) General liability;

(2) Damage, destruction, or loss of real or personal property, including, but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;

(3) Errors and omissions liability; and

(4) Workers' compensation liability.

(C) The City Council and any one or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action in accordance with the act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverage's in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to provide health, dental, accident, and life insurance to member's employees and officers. (Ref. 44-4304 RS Neb.)
(Ord. No. 170, 11/9/87) (Am. by Ord. No. 2002-009, 7/8/02)

Article 13 – Penal Provision

§1-1301 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 2009-007, 6/8/09)