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## **CHAPTER I – CIVIL ADMINISTRATION**

### **ARTICLE I – MAYOR AND CITY COUNCIL**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The City of Valley, Nebraska, is hereby declared to be a city of the second class and shall be governed in all respects by the laws regulating cities of the second class.

#### **SECTION 1-102: CITY COUNCIL; NUMBER, QUALIFICATIONS OF MEMBERS**

The elected officials of the City shall consist of a mayor and four council members who shall be citizens of the United States, residents of the City and registered voters. A council member's term shall expire and the office become vacant upon his/her removal or change of residence from the City. The council members shall qualify and meet on the first regular meeting in December following their election. (Ref. Neb. Rev. Stat. §17-103)

#### **SECTION 1-103: ELECTION OF CITY OFFICIALS**

The term of office of the mayor and City Council is four years. Those members elected in 2004 shall continue to hold their office until December, 2008. Those members elected in 2006 shall continue to hold their office until December, 2010. Two council members' terms shall expire every two years. The election of the council members shall be held on the date of the statewide general election.

#### **SECTION 1-104: MAYOR; DUTIES AND POWERS**

1. The mayor of the City may:
  - A. Require any city official to exhibit his/her accounts at reasonable intervals and make reports to the Council on any subject pertaining to his/her office.
  - B. Remove an appointed police officer of the City at any time, subject to such officer's right of appeal as set forth herein.
2. The mayor shall:
  - A. Have the general and immediate control over all property and officials of the City.
  - B. Preside at all meetings of the City Council and may vote when his/her vote shall be decisive on any pending matter, legislation or transaction; and shall, for the purpose of such vote, be deemed to be a member of the Council.
  - C. Sign the city clerk's minutes of all meetings, all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council.

- D. Have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, as provided in Section 1-407.
- E. From time to time communicate to the council such information and recommendations as, in his/her opinion, may improve the City.
- F. Have such other duties as the City Council may by resolution confer upon him/her.

3. The mayor's 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/her except taxation.

4. Any candidate for mayor must be a registered voter and resident of the City prior to filing for the said office.

(Ref. Neb. Rev. Stat. §17-107, 17-110 through 17-117) (Am. by Ord. No. 672, 3/10/15)

### **SECTION 1-105: MAYOR; VACANCY**

1. Whenever a vacancy occurs in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed, or in the case of temporary absence, until the mayor returns.

2. 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.

3. If the president of the Council shall assume the office of mayor for the remainder of the unexpired term for any reason, there shall be a vacancy on the Council which shall be filled as provided herein.

(Ref. Neb. Rev. Stat. §17-107)

### **SECTION 1-106: PRESIDENT OF COUNCIL; ACTING PRESIDENT**

In case of any vacancy in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed or, in case of temporary absence, until the mayor returns. In the absence of the president, the Council shall elect one of its own body to occupy his/her place temporarily, who shall be styled "acting president of the Council." The president and acting president, when occupying the place of the mayor, shall have the same privileges as other members of the Council; and all acts of the president or acting president, while so acting, shall be as binding upon the Council and upon the City as if done by the mayor. (Ref. Neb. Rev. Stat. §17-148)

### **SECTION 1-107: SUCCESSION OF CONTROL**

In order to designate the succession of control of the City and to declare and control a disaster or emergency when the mayor is not present or is unable to act as the principal

executive officer of the City, then the following is the procedure used to determine who is next in line to fulfill those duties and responsibilities:

1. If the mayor is not present or is incapable of performing his/her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, then the president of the City Council shall perform those functions and duties.

2. Should the president of the Council not be present or be unable to perform said functions and duties, then the council member who has continuously served in such capacity for the longest period of time shall perform those duties and functions.

3. The line of succession for the remaining elected officials shall follow by seniority from the date originally elected or appointed. If more than one council member has the same date of seniority, then the most senior in age shall assume control.

### **SECTION 1-108: VACANCIES IN CITY OFFICES**

1. Except as otherwise provided in subsection (2) or (3) of this section, vacancies in elected offices shall be filled by the 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 City Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The City Council shall give public notice of the vacancy immediately by causing to be published in a newspaper of general circulation within the City or by posting in three public places in the City the office vacated and the length of the unexpired term.

2. The mayor shall place the issue of filling such vacancy on the agenda at the next regular meeting of the City Council or call a special meeting, at which time he/she shall submit the name of a qualified, registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur after the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The City Council shall vote upon such nominee, and if a majority votes in favor of him/her, 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 submit the name of another qualified registered voter to fill the vacancy at the next regular or special meeting. 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 City Council shall continue to vote upon such nominations until the vacancy is filled. All council members present shall cast a ballot for or against the nominee. Any member of the City 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.

3. The City Council may, in lieu of filling a vacancy in the elected office as provided in subsection (1) of this section or subsection (3) of Neb. Rev. Stat. §32-568, call a special city election to fill such vacancy.

### **SECTION 1-109: RESIGNATIONS**

All resignations of the mayor and Council members shall be in writing and submitted to the City Council for acceptance. Resignations shall not be effective until accepted by for-

mal action of the Council. No resignations shall be accepted unless a quorum for conducting business will remain after such acceptance.

### **SECTION 1-110: CITY COUNCIL; POWERS**

The Council shall have all powers granted under the laws of the State of Nebraska, including but not limited to the following: (1) to pass ordinances to prevent and remove nuisances; (2) to prevent, restrain and suppress gambling and disorderly houses; (3) to license and regulate amusements; (4) to establish and provide for police protection; (5) to prevent the spread of contagious diseases; (6) to regulate business; (7) to erect, repair, construct and regulate public ways and property; (8) to maintain good government, public welfare and domestic tranquility; and (9) to enforce all ordinances by assessing penalties upon inhabitants or other persons for violation thereof, not exceeding the amount permitted by Nebraska law for each offense, recoverable with costs, together with enforcement by injunction where necessary.

### **SECTION 1-111: OFFICERS' SALARIES**

1. All elected officers shall receive such compensation as the Council shall fix by Ordinance. The emoluments of elective officers of this city shall be neither increased nor decreased during the term for which elected or appointed, except by merger of offices or when there are other officers elected or appointed to the Council and the terms of one or more members commence and end at different times. The compensation of all members of the Council may be increased or diminished at the beginning of the full term of any member thereof. The officers' salaries shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk.

2. No person who has resigned or vacated any office shall be eligible to the same during the time for which he/she was elected or appointed, if during the same time the emoluments thereof have been increased. In addition to the salaries herein provided, the various officers shall be entitled to mileage and expenses, if and when claims therefor are filed, audited and allowed. The mayor and Council may by resolution authorize clerical assistance in one or more offices when the same may be needed, and claims therefor out of the proper funds may be presented, allowed, audited and paid. All fees earned by an officer of this city in the performance of his/her duties as such shall be considered the property of this city and shall be promptly paid over to the city treasurer and credited to the appropriate fund.

(Ref. Neb. Rev. Stat. §17-108.02, 17-612)

### **SECTION 1-112: COMPENSATION; CONFLICT OF INTEREST**

1. For purposes of this section, "officer" shall mean any member of any board or commission of the City; or any appointed official if such official (A) serves on a board or commission which spends and administers its own funds and (B) is dealing with a contract made by such board or commission; or any elected city official.

2. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be subject to the provisions herein.

3. No officer of the City shall be permitted to benefit from any contract to which the City is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into

the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the City or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such 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 City has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

- A. Has a business with which the individual is associated or business association which shall mean a business: (i) in which the individual is a partner, director or officer; or (ii) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth \$1,000.00 or more at fair market value or which represents more than 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; or
- B. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is (i) an employee of the business involved in the contract and has no ownership interest or (ii) will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

4. The provisions of this section shall not apply if the interested officer:

- A. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his/her interest, prior to official consideration of the contract;
- B. Does not vote on the matter of granting the contract, except that if the number of members of the Council declaring an interest in the contract would prevent the Council, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
- C. Does not act for the City as to inspection or performance under the contract in which he/she has an interest.

5. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions 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. Notwithstanding the provisions of subsections (A) through (C) above, 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/her parent, spouse or child for special action. If an officer has the power to employ personnel and he/she hires his/her parent, spouse or child, such officer shall disclose the hiring pursuant to subsections (A) through (E) below. However, 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. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City.

6. The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections (A) through (E) of this section about every contract entered into by the City in which an officer has an interest as specified above for which disclosure is made as provided in subsections (A) through (C) above. 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:

- 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;
- D. Amount of the contract; and
- E. Basic terms of the contract.

7. The information supplied relative to the contract shall be provided to the clerk not 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 normal working hours.

8. An open account established for the benefit of this city or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section 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 this section.

9. Any officer who knowingly violates the provisions of this section shall be guilty of a Class III misdemeanor. Any officer who negligently violates this section shall be guilty of a Class V misdemeanor.

10. The City may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which one of its officers may have an interest.

11. No officer shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty which shall come within the proper scope of the duties of any officer of the City.

(Ref. Neb. Rev. Stat. §17-611, 18-305 through 18-312, 49-14, 103.01 through 49-14, 103.03, 70-624.04)

### **SECTION 1-113: ELECTED OFFICIALS; QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE**

1. Elected officials shall be residents and registered voters of the City.

2. The mayor and members of the Council shall hold no other elective or appointive office or employment with the City. For purposes of this section:

- A. "Elective office" means any office which has (i) candidates nominated or elected at the time of a statewide primary election; (ii) candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; (iii) candidates elected at the time of a statewide general election; (iv) candidates nominated or elected at a city 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;

B. "High elective office" means a member of the Legislature, an elective office described in Article IV, Sections 1 or 20, or Article VII, Sections 3 or 10 of the Nebraska Constitution, or a county, city or school district elective office.

(Ref. Neb. Rev. Stat. §17-108.02, 32-109, 32-603, 32-604)

## **ARTICLE II – APPOINTIVE OFFICERS**

### **SECTION 1-201: APPOINTIVE OFFICERS**

The mayor, at the first regular meeting of the City Council held after he/she takes office or as soon after as he/she can reasonably do so, may appoint, with the advice and consent of the Council, a city clerk, city treasurer, city engineer, city attorney, city police chief, public works superintendent and water superintendent. The mayor shall also appoint whatever other officials of the City he/she deems necessary, who shall serve at the pleasure of the City Council. (Ref. Neb. Rev. Stat. §17-107, 17-541)

### **SECTION 1-202: MERGER OF OFFICES**

The City Council may, in its discretion, by ordinance combine and merge any elective or appointive office or employment, except the mayor or a City Council member, with any other elective or appointive office so that one or more of such offices may be held by the officer or employee at the same time. Any offices so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. 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. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

### **SECTION 1-203: ADMINISTRATOR/CLERK/TREASURER POSITION CREATED; DUTIES AND POWERS**

1. There is hereby established the office of city administrator. Said office is hereby merged and combined with the appointive offices of city clerk and city treasurer. The merged and combined offices shall be known as city administrator/clerk/treasurer.

2. The city administrator/clerk/treasurer shall be the chief administrative officer of the City and shall serve as administrative agent for the mayor and City Council in the supervision of the offices and good government of the City. All departments of the City, except the Police Department, shall be under the administrative supervision and direction of the city administrator/clerk/treasurer, and the mayor and City Council shall deal with all departments of the City and employees through the city administrator/clerk/ treasurer. Such office shall be filled by appointment of the mayor by and with the consent of the City Council, and the person filling such office shall serve at the mayor's pleasure.

3. In the performance of this employee's role as chief administrative officer of the City, the city administrator/clerk/treasurer shall have the following duties and powers:

- A. Maintain all city, general, utility, payroll, revenue sharing and bond retirement financial records and reports.
- B. Supervise payroll, maintain permanent payroll records, collect payroll deductions and remit the same according to law.
- C. Administer city comprehensive, business, employee health, dental, self-insurance, workmen's compensation, unemployment and other insurance programs and employee retirement programs.
- D. Serve as city personnel director.
- E. Assist and supervise all city department heads in general operation of their departments, but not to include the making of operational decisions made by said department heads. In pursuance of this provision, the city administrator/clerk/treasurer shall meet monthly with department heads.
- F. Supervise personnel evaluation programs.
- G. Prepare and submit to the mayor annual evaluations of all city personnel under his/her supervision.
- H. Supervise city office personnel.
- I. Coordinate employment application procedures and interviews.
- J. Generally supervise the city zoning officer/building inspector and his/her assistants.
- K. Serve as city purchasing agent for all departments.
- L. Assume general responsibility in conjunction with department heads for maintenance of perpetual inventories for each department.
- M. Assume general responsibility for accident, injury and damage reports and supervision over monthly department safety meetings.
- N. Attend City Council, board, commission or committee meetings when indicated.
- O. Assume general responsibility for budget preparation and periodic budget reports to mayor and City Council.

#### **SECTION 1-204: CITY CLERK; DUTIES**

The duties of the city clerk will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council. The city clerk shall have custody of all laws and ordinances. He/she shall:

1. Keep a current journal of the proceedings of the City Council.

2. Maintain a complete record of all outstanding bonds against the City, showing the number and amount of each, for and to whom the said bonds were issued and all other pertinent information in regard to said bonds.
3. Take possession of all books, papers and all other official records of the City and maintain said records in a safe place.
4. Have custody of the seal of the City and all written official papers.
5. Attend the meetings of the City Council and keep a minute record of the proceedings thereof.
6. Maintain an account of all of the appropriations of the several funds of the City.
7. Draw, sign and attest all warrants ordered for payment on a particular fund from which the same is payable, and at the end of each month make a report of the amount appropriated to each fund and the amount of warrants drawn thereon.
8. Attest to the mayor's signature when necessary and attach the city seal to all official documents.
9. Whenever any claim presented by any person has been disallowed by the City Council, notify said claimant of said disallowance by the Council within five days after such disallowance.
10. Account for all money received in the normal course of city business and keep a proper record of all monies received, issuing a proper receipt to those parties making payment to the account of the City.
11. Publish all notices required in the performance of his/her duties and keep a record of all published notices; keep a record of the publisher's affidavit of said publication if said notices are published in a legal newspaper.
12. Maintain all books and public records of the City for public inspection by any resident of the City during normal business hours.
13. Make a notation on all correspondence received as to the date of receipt and, as soon as possible, convey said correspondence to the appropriate official of the City.
14. Keep and maintain all other legal papers required to be maintained by these ordinances or by Nebraska state law.
15. Maintain a minute book wherein shall be recorded all of the formal and informal actions of the mayor and City Council, and maintain a record of the various ordinances and resolutions passed by the Council. The minutes of any meeting of the 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 earliest, except that an additional ten days shall be allowed for writing and making available for inspection such minutes in the event of the clerk's serious illness or an emergency which prevents him/her from writing such minutes and making them available to the general public within ten working days as set forth herein.

(Ref. Neb. Rev. Stat. §17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712)

## **SECTION 1-205: CITY TREASURER; DUTIES**

The duties of the city treasurer will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council. The city treasurer shall:

1. Deposit, and at all times keep on deposit for safekeeping, in banks or other institutions of approved and responsible standing, all money collected, received or held as treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the City for the receiving and holding thereof. A bond or pledged securities shall be required from all banks or financial institutions in which municipal funds are deposited in any amount exceeding that amount insured by the Federal Deposit Insurance Corporation.

2. Keep a separate account of each and every fund or appropriation and the debits and credits belonging to the City.

3. Provide a receipt for anyone paying money into the city treasury if such person requests a receipt, specifying the date of payment and on what account paid, and also file copies of said receipts with his/her monthly reports made to the mayor and City Council.

4. At the end of each month and as often as may be required, render a report to the mayor and City Council showing, under oath, the condition of the various accounts of the treasury at the time of such reports and the balance in the treasury; and accompany such accounts with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with his/her accounts in the city clerk's office.

5. Keep a record, in a book suitable for that purpose, of each and every warrant paid and from what fund paid.

6. Procure and keep a warrant register which shall show the number, date and amount of each warrant presented and registered as hereinafter provided, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when the notice to such person in whose name such warrant is registered is mailed as hereinafter provided. It shall be the duty of the city treasurer, upon presentation of any warrant for payment, in the presence of such person to enter such warrant in the warrant register for payment in the order of its presentation and, upon every warrant as presented and registered, endorse "Registered for Payment" with the date of such registration and register number; and sign such endorsement, whereupon such warrant shall draw interest at the legal rate from the date of registration until notice of payment shall be given to the holder as provided by law. (Ref. Neb. Rev. Stat. §17-606 through 17-609, 84-712)

## **SECTION 1-206: CITY TREASURER; MONTHLY REPORT**

The city treasurer shall, at the end of each month and as often as may be required, render a report to the mayor and City Council showing, under oath, the condition of the various accounts of the treasury at the time of such reports and the balance of money in the

treasury; such accounts shall be accompanied with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with his/her accounts in the city clerk's office. The city treasurer shall also produce depository evidence that all city money is in a solvent financial institution in the name of the City. If he/she neglects or fails, for a period of ten days from the end of each and every month, to render his/her account, the office shall be declared vacant and the mayor and City Council shall fill the vacancy by appointment until the next election of city officials. (Ref. Neb. Rev. Stat. §17-606)

### **SECTION 1-207: CITY TREASURER; ANNUAL REPORT**

The city treasurer is required to publish or cause to be published in a legal weekly newspaper published in or of general circulation in said city within 60 days following the end of each fiscal year a report of the activities of his/her office, which said report shall show in detail all receipts, disbursements, warrants outstanding, and the debit or credit balance of the City. (Ref. Neb. Rev. Stat. §19-1101)

### **SECTION 1-208: CITY ATTORNEY; DUTIES**

The city attorney, when appointed, shall be legal advisor to the mayor and the City Council and shall undertake all legal matters of the City as set forth by Nebraska statutes. The City Council shall have the right to pay the city attorney compensation for legal services performed 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. The city attorney shall:

1. 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.
2. When requested, attend meetings of the Council and give the members an opinion upon any matters submitted to him/her either orally or in writing as may be required.
3. Draft or review for legal correctness ordinances, contracts, franchises and other instruments as may be required, and
4. Perform such other duties as may be imposed by general law or ordinance.

(Ref. Neb. Rev. Stat. §17-610)

### **SECTION 1-209: CITY POLICE CHIEF; DUTIES**

The duties of the city police chief will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council. The city police chief shall:

1. Diligently inquire into any and all violations of city ordinances and state statutes; if he/she determines that a violation of city ordinances or state statutes has occurred, issue a written complaint and cause the arrest of such person.
2. Make or cause to be made the necessary written complaint against any person under arrest for the violation of any city ordinances or state laws, and bring any such

prisoner before the County Court whenever required to do so by rule or order of the county judge.

3. Have general control over motor vehicular traffic and, together with such special officers detailed to assist as traffic officers by the mayor and City Council, shall direct the movement of traffic at intersections and elsewhere; and it shall be unlawful for any person to violate any order or signal of the city police or of any special traffic officer.

4. Perform such other duties as may be required of him/her by resolution or by order of the mayor and City Council.  
(Ref. Neb. Rev. Stat. §17-107, 17-121)

### **SECTION 1-210: PUBLIC WORKS SUPERINTENDENT**

The duties of the public works superintendent will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council. The public works superintendent may be removed for good cause by a two-thirds vote of the City Council.

### **SECTION 1-211: STREET SUPERINTENDENT**

1. The public works superintendent, acting as the street superintendent, shall 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 Council may require. It shall be his/her responsibility to see that gutters and drains therein function properly and that the same are kept in good repair. He/she shall, at the request of the Council, make detailed reports on the condition of the streets, sidewalks, culverts, alleys and bridges of the City, and direct their attention to such improvements, repairs, extensions, additions and additional employees as he/she may need to maintain a satisfactory street system in the City, along with an estimate of the cost thereof. It shall be the special duty of the street superintendent to supervise and direct the snow and tree removal work in the City.

2. The duties of the street superintendent will be those set forth herein and as set forth specifically in the job description separately adopted by the mayor and City Council.  
(Ref. Neb. Rev. Stat. §17-107, 17-119)

### **SECTION 1-212: 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 surveys and all other work done for the City. When directed by the City Council, he/she shall accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the Council. He/she shall, upon request of the 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, building of culverts, sewers, electric systems, waterworks, power plants, curbing and gutters, and the improvement of streets and erection and repair of buildings. He/she shall perform such other duties as the City Council may require. All records of the special engineer shall be public records which shall belong to the City and shall be turned over to his/her successor. (Ref. Neb. Rev. Stat. §17-405, 17-568, 17-568.01, 17-919)

## **SECTION 1-213: BUILDING INSPECTOR**

The building inspector shall report to the City Council as often as may be deemed necessary and shall have such other duties and issue such permits as may be directed. He/she may be removed at any time for good and sufficient cause by the City Council. The building inspector shall:

1. Conduct surveys and make inspections in any area of the City to determine whether all buildings and structures are in compliance with the municipal ordinances.
2. Investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation.
3. Upon properly identifying himself/herself, be authorized to enter, inspect, survey and investigate any building between the hours of 8:00 A.M. and 5:00 P.M., or at any time if an emergency exists, or if requested by the owner or occupant thereof.
4. Keep records of all complaints received, inspection reports, orders, and complaints issued. The records shall be available for public inspection, and he/she shall prepare an annual report including statistics based on the records kept.
5. Have no financial interest in the furnishing of labor, materials or appliances for the construction, alteration, or maintenance of a building except where he/she is the owner of a building, and he/she shall not act as an agent for any said dealer, or as an agent for the sale, lease, or rental of any real estate.

## **SECTION 1-214: ELECTRICAL INSPECTOR**

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

## **SECTION 1-215: PLUMBING INSPECTOR**

The building inspector, acting as the plumbing inspector, shall enforce all laws relating to the installation of plumbing and connections thereto. When acting in good faith and without malice in the scope of his/her official duties, he/she shall not be held personally liable for any damage that may accrue to persons or property as the result of any act required by him/her or by reason of any act or omission in the discharge of his/her duties. Said inspector shall, in the discharge of his/her official duties and upon proper identification, have authority to enter into any building, structure or premises at any reasonable hour and shall perform such other duties and issue any permits that the mayor and City Council may direct. The plumbing inspector may be removed at any time for good and sufficient cause by the City Council.

## **SECTION 1-216: ZONING ADMINISTRATOR**

The building inspector is hereby designated as zoning administrator.

## **ARTICLE III – ADMINISTRATION**

### **SECTION 1-301: CORPORATE SEAL**

There shall be owned by the City, in the office of the city clerk, a common seal of the corporation, having engraved thereon the words "City of Valley, Nebraska, Seal." The city clerk shall affix an impression of said seal on all papers or documents executed by him/her in his/her official capacity. (Ref. Neb. Rev. Stat. §17-502)

### **SECTION 1-302: OFFICERS, BONDS**

1. The officers of the City, before entering upon their duties, shall give bonds for the faithful performance of their duties in an amount set by resolution of the City Council, which said bonds shall be executed with a corporate surety and approved by the Council. Said bonds shall be filed in the office of the city clerk. Premiums on said bonds shall be paid out of the general funds or other proper funds of said city.

2. In the event that sureties on the official bond of any officer of the City, in the opinion of the City Council, become insufficient, the Council may require by resolution a reasonable time within which such officer may give a new bond or additional sureties thereon as directed. In the event that this officer shall 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 Council to appoint a competent and qualified person to fill this said office. Any official who is re-elected to such office shall be required to file a new bond after each election.

### **SECTION 1-303: OATH OF OFFICE**

All officers of the City, whether elected or appointed, shall declare and subscribe the following oath or affirmation before entering upon the duties of their respective offices:

"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." This oath or affirmation so subscribed shall be filed in the office of the city clerk.

(Ref. Neb. Rev. Stat. §11-101)

## **SECTION 1-304: MEETINGS, PUBLIC; NOTICE; OPEN MEETINGS ACT**

1. All public meetings as defined by law shall be held in a public building located within the City, 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 transmitted to all members of the City Council and to the public by a method designated by the Council. Such notice shall contain the time and specific place for each meeting, and either (A) an enumeration of the agenda subjects known at the time of the notice or (B) a statement that an agenda, kept continually current, shall be available for public inspection at the office of the city clerk. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. The City shall have the right to modify the agenda at the public meeting when convened. The minutes of the city clerk shall include a record of the manner by which the advanced publicized notice was given, the time and specific place of each meeting and the names of each member of the Council present or absent at each convened meeting.

2. In order to address any item on the agenda of any public meeting, no member of the public shall be required to be named on the agenda prior to such meeting, nor shall such members of the public be required to identify themselves by signing in prior to such meeting. However, prior to addressing the City Council on any agenda item, members of the public shall be required to identify themselves. (Ord. No. 579, 2/10/08)

3. 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.

4. Any formal actions taken at any public meeting not in conformity with the provisions of this section shall be deemed to be void. Any official who shall violate the provisions of this section shall be deemed to be guilty of a misdemeanor.

5. This section does not apply to chance meetings or to attendance at or travel to conventions or workshops of the City Council at which there is no meeting of the Council then intentionally convened, if there is no vote or other action taken regarding any matter over which the Council has supervision, control, jurisdiction or advisory power.

6. 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.

## **SECTION 1-305: MEETINGS; PLACE, DAY, TIME; QUORUM**

1. The meetings of the City Council shall be held at the council chambers or other location set by the Council by resolution. Regular meetings shall be held on the second Tuesday of each month at the hour of 7:00 P.M. Special meetings may be called by the mayor or by a majority of the City Council for those purposes which shall be submitted in writing to the council members prior to said meeting. The call and object of said meeting shall be entered upon the journal by the city clerk as well as the disposition of said meeting.

2. 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. 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 City Council shall be called to order by the mayor. In the absence of the mayor, the Council shall have the power to appoint a mayor pro tempore, who shall exercise and have the powers and perform the same duties as the regular mayor.

(Ref. Neb. Rev. Stat. §17-105, 17-106)

### **SECTION 1-306: MEETINGS; ORDER OF BUSINESS**

Promptly at the hour set by law on the day of each regular meeting, the mayor, the members of the City Council, the city clerk, and such other city officials as may be required shall take their regular stations in the City Hall, and the business of the City shall be taken up for consideration and disposition.

### **SECTION 1-307: MEETINGS; PARLIAMENTARY PROCEDURE**

1. 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 questions, no person shall leave the meeting room. Before speaking, every person shall rise from his/her seat and address the presiding officer, and while speaking shall confine himself/herself to the question.

2. All resolutions or motions shall be reduced to writing before being acted upon if requested by the city clerk or any member of the Council. Every member of the City Council who is present when a question is voted upon shall cast his/her 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 debated. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Council making the motion or resolution shall also be entered. After each vote, a roll call vote shall be taken and entered in the minutes upon the request of any member of the 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 member of the Council seconding the said resolution, motion or ordinance. When any question is under debate, no motion shall be made, entertained or seconded except the previous question or a motion to table or to adjourn. Each of the said motions shall be decided without debate.

3. 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.

### **SECTION 1-308: MEETINGS; CHANGE IN OFFICE**

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held, and the outgoing officers and the outgoing members of the Council shall present their reports.

Upon the old Council's having completed its business, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his/her successor in office all property, records, papers and monies belonging to the same.

### **SECTION 1-309: MEETINGS; ORGANIZATIONAL**

1. The newly elected City Council shall convene in the council chambers 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 the body for the ensuing year. The mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its members to be president. The mayor shall nominate his/her candidates for appointive offices and then proceed with the regular order of business.

2. It is hereby made the duty of each and every member of the Council or his/her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December following his/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 his/her 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/her office. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his/her office, with the oath endorsed thereon.

### **SECTION 1-310: APPOINTMENT OF COMMITTEES**

At the organizational meeting of the City Council, the mayor may appoint members of such committees as may be necessary from time to time, which committees shall serve at the pleasure of the City Council. The membership of such standing committees may be changed at any time by the mayor, who shall be a member ex officio of each standing committee. Each member of the standing committee shall serve a term of office of one year, unless reappointed.

### **SECTION 1-311: SPECIAL MEETINGS**

1. 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.

2. 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, the Council members shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter I, Article IV.  
(Ref. Neb. Rev. Stat. §17-106)

## **SECTION 1-312: MEETINGS; CLOSED SESSIONS**

1. The mayor and Council may hold a closed session by an 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 if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close.

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

3. The vote to hold a closed session shall be taken in open session. The entire motion to close, the vote of each member on the holding of a closed session and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion passes, then the mayor shall, immediately prior to the closed session, restate on the record the limitation of the subject matter of the closed session. In holding such a closed session, the Council shall restrict its consideration of matters during the closed portion to only those purposes set forth in the motion to close as the reason for the closed session.

4. Any member of the Council 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. Such challenge shall be overruled only by a majority of the members of the Council. Such challenge and its disposition shall be recorded in the minutes.

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

6. The provisions of this section shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power.

(Ref. Neb. Rev. Stat. §84-1410)

## **SECTION 1-313: MEETINGS; NOTICE TO NEWS MEDIA**

The city clerk, secretary or 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 such meeting. (Ref. Neb. Rev. Stat. §84-1411)

## **SECTION 1-314: MEETINGS; PUBLIC PARTICIPATION**

1. Subject to the provisions of this article, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-312, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

2. It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself/herself. No public body shall hold a meeting in place known to be too small to accommodate the anticipated audience for the purpose of circumventing the provisions of this article. No public body shall be deemed in violation of this section if it holds its meetings in its traditional meeting place located in this state. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Ref. Neb. Rev. Stat. §84-1412, 18-2438)

## **ARTICLE IV – ORDINANCES**

### **SECTION 1-401: GRANT OF POWER**

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

### **SECTION 1-402: TITLE**

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

### **SECTION 1-403: STYLE**

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

### **SECTION 1-404: INTRODUCTION**

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

1. With the recognition of the mayor, a council member may, in the presence and hearing of a majority of the council members, read aloud the substance of his/her proposed ordinance and file a copy of the same with the city clerk for future consideration; or

2. With the recognition of the mayor, a council member may present his/her proposed ordinance to the city clerk who, in the presence and hearing of a majority of the council members, shall read aloud the substance of the same and shall file it for future consideration.

## **SECTION 1-405: RESOLUTIONS AND MOTIONS**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the council members. The issue raised by any said resolution or motion 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, and the vote on any resolution or motion shall be by roll call vote.

## **SECTION 1-406: READING; SUSPENSION OF RULES**

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the council votes 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 ordinances shall be read by title and then moved for final passage. Three-fourths of the council may require a reading of any such ordinance in full before enactment under either procedure set out in this section. (Neb. Rev. Stat. §17-614)

## **SECTION 1-407: PASSAGE; MAYOR'S VETO**

A. 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 the City Council. The mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

B. The mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council, stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, he or she shall notify the city clerk of the veto in writing. The clerk shall notify the City Council in writing of the mayor's veto.

C. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill and approve the remainder thereof, and the item or items vetoed may be passed by the council over the veto as in other cases.

(Neb. Rev. Stat. §17-111, 17-614) (Am. by Ord. No. 672, 3/10/15)

#### **SECTION 1-408: EFFECTIVE DATE**

The city clerk shall, within 15 days after the passage of any ordinance, publish the same in a legal newspaper of general circulation in the City or post the ordinance in the normal three public places. The ordinance shall then become effective upon publication or posting. (Ref. Neb. Rev. Stat. §17-613)

#### **SECTION 1-409: EMERGENCY ORDINANCES**

An ordinance passed to deal with riot, infectious or contagious disease or other impending danger, failure of a public utility or other emergency requiring its immediate operation 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 notice shall recite the emergency, be passed by a three-fourths vote of the Council, and entered upon the city clerk's minutes. (Ref. Neb. Rev. Stat. §17-613, 19-3701)

#### **SECTION 1-410: CERTIFICATE OF PUBLICATION OR POSTING**

The passage, approval and publication or posting of any ordinance shall be sufficiently proven by a certificate under the city seal 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, by whom and where the same was posted.

(Ref. Neb. Rev. Stat. §17-613)

#### **SECTION 1-411: AMENDMENTS AND REVISIONS**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed. (Ref. Neb. Rev. Stat. §17-613)

### **ARTICLE V – FISCAL MANAGEMENT**

#### **SECTION 1-501: FISCAL YEAR**

The fiscal year of the City shall commence on October 1 and extend through the following September 30. (Ref. Neb. Rev. Stat. §17-701)

#### **SECTION 1-502: BUDGET PROCEDURE**

The *Manual of Instructions for City/Village: Budgets*, prepared by the state Auditor of Pub-

lic Accounts, is incorporated by reference for the purpose of proper budget preparation and shall be followed wherever practicable.

### **SECTION 1-503: BUDGET STATEMENT**

1. The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which the Council shall appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. Such budget statement shall be prepared on forms prescribed and furnished by the Nebraska Auditor of Public Accounts and shall contain that information required by the *Manual of Instructions for City/Village: Budgets*, prepared by the state auditor.

2. The annual appropriation bill shall not be amended without a majority vote of the City Council after a public hearing. 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. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements, extensions and additions to such functions and shall not be included in the annual appropriation bill.

(Ref. Neb. Rev. Stat. §13-504)

### **SECTION 1-504: BUDGET HEARING**

Subsequent to the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing thereon. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. After such hearing, the statement shall be adopted, or amended and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption. (Ref. Neb. Rev. Stat. §13-506)

### **SECTION 1-505: BUDGET FILING**

The City Council shall file with and certify to the levying board and file with the Nebraska State Auditor a copy of the adopted budget statement, together with the amount of the tax to be levied and proof of publication. Such filing shall be made on or before September 20th. The City Council shall not certify any tax that exceeds the maximum levy prescribed by state law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied, plus the actual percentage of delinquent taxes for the preceding tax year. (Ref. Neb. Rev. Stat. §13-508)

### **SECTION 1-506: ANNUAL AUDIT**

1. The City Council shall cause an audit of the city's accounts to be made by a qualified, independent accountant as expeditiously as possible following the close of the fiscal year covering all financial transactions and affairs of the City for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City. Such audit shall be completed and the annual audit report made by such accountant submitted within six months of the close of the fiscal year, unless an extension of time

shall be granted by a written resolution of the City Council. 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.

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 auditor shall submit not less than three copies of the audit report to the City Council. Two copies of the annual report shall be filed with the city clerk, becoming a part of the public records of the clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the state auditor.

(Ref. Neb. Rev. Stat. §19-2901 through 19-2909)

### **SECTION 1-507: ALL-PURPOSE LEVY**

The City Council has determined that the amount of money to be raised by taxation shall be certified to the county clerk in the form of one all-purpose levy instead of certifying a schedule of levies for specific purposes added together. Said all-purpose levy shall not exceed an annual levy in excess of the legal maximum as prescribed by state law upon the assessed valuation of all taxable property in the City, except intangible property. (Ref. Neb. Rev. Stat. §17-702)

### **SECTION 1-508: CONTRACTS**

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, sewer, public heating system, bridges, work on streets, or any other work or improvement costing over \$30,000.00 shall be made when such cost is assessed to the property, unless it is first approved 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 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 electric utility has gross annual revenue from retail sales in excess of \$1,000,000.00;

C. \$90,000.00 or less and the 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.

(Ref. Neb. Rev. Stat. §17-568.01) (Am. by Ord. No. 580, 2/10/08)

### **SECTION 1-509: 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 City 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 that in the event there exist 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. Neb. Rev. Stat. §17-714, 17-715)

### **SECTION 1-510: 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 of such fund.

### **SECTION 1-511: TRANSFER OF FUNDS**

1. Whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the City Council may, by a majority vote, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing, at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of any such hearing.

2. Notice of the place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement stating the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

3. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said board shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(Ref. Neb. Rev. Stat. §13-510, 13-511)

### **SECTION 1-512: 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. (Ref. Neb. Rev. Stat. §17-710)

### **SECTION 1-513: 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 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 for three 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. Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

## **SECTION 1-514: DEPOSIT OF FUNDS**

The City Council, at its first meeting in each fiscal year, shall designate one or more financial institutions of approved and responsible standing in which the city treasurer shall keep at all times all money held by him/her; provided, if more than one financial institution in the City meets the requirements for approved financial institutions as herein defined, the said funds shall be deposited in each of them and the city treasurer shall not give a preference to any one or more of them in the money deposited. A bond shall be required from all financial institutions so selected, in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (Ref. Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

## **SECTION 1-515: 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. Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

## **SECTION 1-516: 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, or the claim for the payment of such order or warrant has been allowed according to Nebraska law and funds for the claim or out of which said claim is payable had been included in the adopted budget statement according to law.

## **SECTION 1-517: 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. Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

# **ARTICLE VI – ELECTIONS**

## **SECTION 1-601: ELECTION OF OFFICERS; CERTIFICATION**

All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than July 1 of each even-numbered year, the City Council shall certify to the secretary of state, the election commissioner or the county clerk, 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 terms, and the number of votes to be cast by a registered voter for each office. (Ref. Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-532, 32-556)

## **SECTION 1-602: 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.

## **SECTION 1-603: 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/her 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. Neb. Rev. Stat. §32-1122)

## **SECTION 1-604: 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 payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Ref. Neb. Rev. Stat. §32-608)

## **SECTION 1-605: VOTER QUALIFICATIONS**

"Elector" shall mean a person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office and upon all questions and proposals lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county.

(Ref. Neb. Rev. Stat. §17-602, 32-110)

## **SECTION 1-606: PETITION CANDIDATES**

1. Any registered voter who was not a candidate in the primary election may have his/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/her name placed on the general election ballot if a vacancy exists on the ballot under subsection (1) of Neb. Rev. Stat. §32-626 and the candidate files for the office by petition as prescribed in this section.

3. 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 City.

4. 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.

5. 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 City 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 required filing fee. The petitions shall be filed by September 1 in the year of the general election.

(Ref. Neb. Rev. Stat. §32-616 through 32-618)

### **SECTION 1-607: NOMINATION BY WRITE-IN VOTES**

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for City Council, such person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless such person shall have received not less than 20% of the total vote cast for the candidate receiving the greatest number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward.

### **SECTION 1-608: SPECIAL JOINT ELECTIONS**

1. Any issue to be submitted to the registered voters at a special election by the City shall be certified by the city clerk to the election commissioner or 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. No special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide primary election, and no special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

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/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, issue absentee ballots

and conduct the submission of the issue, including the receiving and counting of the ballots. 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.

(Ref. Neb. Rev. Stat. §32-559)

## **SECTION 1-609: CERTIFICATE OF NOMINATION OR ELECTION**

The county clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the canvassing board has declared to have received the highest vote for each municipal office. A certificate of election prepared by the city clerk shall be as near as possible to the form prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City and countersigned by the city clerk. (Ref. Neb. Rev. Stat §32-558 and 32-1033)

## **SECTION 1-610: INABILITY TO ASSUME OFFICE**

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

## **SECTION 1-611: RECALL PROCEDURE**

1. Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309.

2. Petition circulators shall conform to the requirements of the Election Act. The petition papers shall be procured from the city clerk. Each petition paper shall conform to the requirements of state law. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the city clerk by at least one registered voter. Such voter(s) shall be deemed to be the principal circulator(s) of the recall petition. The affidavit shall state the name and office of the official sought to be removed and shall request that the city clerk issue initial petition papers to the principal circulator for circulation. The city clerk shall notify the principal circulator that the necessary signatures must be gathered within 30 days from the date of issuing petitions.

3. The city clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his/her office, the name of the principal circulator to whom the papers were issued, the date of issuance, and the number of papers issued. The clerk shall certify on the papers the name of the principal circulator 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 who checks out petitions from the city clerk may distribute such petitions to registered voters residing in the City who may act as circulators of such petitions.

4. Petition signers shall conform to the requirements of the Election Act. Each signer of a recall petition shall be a registered voter and qualified by his/her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

5. A petition demanding that the question of removing a member of the City Council be submitted to the registered voters shall be signed by registered voters equal in number to at least 45% of the total vote cast for the person receiving the most votes for that office in the last general election.

6. The principal circulator shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the city clerk within 30 days after he/she issues the initial petition papers to the principal circulator. Within 15 days after the filing of the petition, the clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signature may be removed unless the clerk receives an affidavit signed by the person requesting his/her signature be removed before the petitions are filed with the city clerk for signature verification. If the petition is found to be sufficient, the city 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 city clerk shall file the petition in his/her office without prejudice to the filing of a new petition for the same purpose.

7. If the recall petition is found to be sufficient, the city clerk shall notify the official whose removal is sought and the City Clerk that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the City 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 City Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, it shall be held regardless of whether the official whose removal is sought resigns before such recall election is held.

8. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or if the election results in a tie, the official shall continue in office for the remainder of his/her term but may be subject to further recall attempts as provided in subsection 10 of this section. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he/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 code and state law. 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 files a written statement with the city clerk that he/she does not want a recount. 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.

9. 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/her removal or the removal of another member of the City Council during the remainder of his/her term of office.

10. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him/her from office or within six months after the beginning of his/her term of office or within six months prior to the incumbent's filing deadline for the office.

(Ref. Neb. Rev. Stat. §32-1301 through 32-1309)

### **SECTION 1-612: BALLOTS**

The county clerk shall provide printed ballots for every general municipal election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Ref. Neb. Rev. Stat. §32-1202)

### **SECTION 1-613: ELECTIONS AT LARGE; SINGLE POLLING PLACE**

All elected officials of the City shall be nominated and elected on an at-large basis. There shall be one polling place within the City to be selected and designated as provided by law.

### **SECTION 1-614: EXIT POLLS**

On Election Day no person shall conduct any exit poll, public opinion poll, or any other interviews seeking to determine voter preferences within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Ref. Neb. Rev. Stat. §32-1525)

## **ARTICLE VII – POLICE DEPARTMENT**

### **SECTION 1-701: POWERS, DUTIES, RESPONSIBILITIES**

1. Suitable uniforms and badges shall be furnished to the city police officers by the City. Any member who shall lose or destroy the same shall be required to pay the replacement costs. Any member who shall leave the force shall immediately deliver his/her badge to the chief of police. In addition to uniforms, the City Council may from time to time provide the city police with such equipment and transportation as may be essential in the performance of their official duties.

2. It shall be unlawful for the City Council to retain any city police officer in such position upon his/her conviction of any Class I misdemeanor, Class W misdemeanor, or any felony violation of the United States, the State of Nebraska, or any other comparable offenses of any other jurisdiction.

3. No law enforcement official shall have any interest in any establishment having a liquor license.

4. City police officers, whether regular or special, shall:
  - A. Be expected to be conversant with and knowledgeable of the city and state laws.
  - B. 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.
  - C. Have the duty to file such complaints and reports as may be required by the city ordinances and state laws. City police who shall purposely and willfully fail, neglect or refuse to make an arrest or purposely and willfully fail to make a complaint after an arrest is made shall be charged with a misdemeanor, and shall be fined upon conviction of said misdemeanor.
  - D. Upon making a lawful arrest, 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.
  - E. 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.

## **SECTION 1-702: ARREST JURISDICTION**

1. The police chief or any other city police officer shall have the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his/her primary jurisdiction. "Primary jurisdiction" shall mean the geographic area within territorial limits of the City.

2. The police chief and any other city police officer who is within this state but beyond the territorial limits of his/her primary jurisdiction shall have the power and authority to enforce the laws of this state or any legal ordinance of the City or otherwise perform the functions of his/her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his/her primary jurisdiction in the following cases:

- A. The police chief or any other city police officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return him/her to the officer's primary jurisdiction;
- B. The police chief or any other city police officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return him/her to the officer's primary jurisdiction;

C. The police chief or any other city police officer shall have enforcement, arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance, which shall mean (i) a law enforcement officer whose life is in danger or (ii) who needs assistance in making an arrest and the suspect (a) will not be apprehended unless immediately arrested, (b) may cause injury to himself/herself or others or damage to property unless immediately arrested, or (c) may destroy or conceal evidence of the commission of a crime; and

D. If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802.

(Ref. Neb. Rev. Stat. §29-215)

### **SECTION 1-703: DISCHARGE OR DISCIPLINE OF POLICE OFFICERS**

Any city police officer or the police chief may be disciplined or immediately discharged from duty for gross misconduct, neglect of duty or disobedience of lawful orders of the mayor or the City Council as a whole.

### **SECTION 1-704: APPEAL PROCEDURE FOR DISCHARGED OR DISCIPLINED POLICE OFFICERS**

1. In the event of discharge for any of the causes set forth in Section 1-703, the city police chief or police officer shall have the right to appeal his/her discharge or disciplinary action to the City Council. Such appeal shall be made within 30 days of his/her discharge or disciplinary action by filing a written application for a hearing before the Council. Such written application shall be made to the city clerk, who shall immediately notify the mayor of the receipt of such application.

2. Upon notice of the filing of such application and within 20 days of receipt of the same, the mayor shall call a special meeting of the City Council to consider such application. Both the police officer and the individuals causing such disciplinary action or discharge shall have the right to be heard at the hearing and to present evidence to the Council for its consideration. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse or modify the removal or disciplinary action.

3. The failure of the City Council to act within 30 days or the failure of a majority of the Council members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and effective operation of the Police Department in the performance of its duties under the statutes of the State of Nebraska.

4. Nothing in this section shall be construed to prevent the preemptory suspension

or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty or disobedience of orders.

(Ref. Neb. Rev. Stat. §17-107)

## **ARTICLE VIII – PLANNING COMMISSION**

### **SECTION 1-801: MEMBERS**

The Planning Commission shall consist of nine regular members appointed by the mayor by and with the approval of a majority vote of the City Council. Such regular members shall represent, insofar as is possible, the different professions or occupations in the City. The terms of the regular members shall be three years and shall be staggered. All regular members shall hold office until their successors are appointed. After a public hearing before the City Council, any regular member may be removed by the mayor with the consent of a majority vote of the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. A vacancy occurring otherwise than through the expiration of a term shall be filled for the unexpired portion of the term by the mayor.

### **SECTION 1-802: OFFICERS; MEETINGS; DUTIES**

1. All regular members of the commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908. All members of the commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties.

2. The commission shall elect from its membership a chairperson and a secretary and shall elect other officers as it may determine necessary. The terms of the chairperson and the secretary shall be one year and they shall be eligible for re-election. No member of the commission shall serve in the capacity of both chairperson and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection during office hours.

3. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall hold at least one regular meeting in each calendar quarter, except that (A) the City Council may require the commission to meet more frequently and (B) the chairperson of the commission may call for a meeting when necessary to deal with business pending before the body. Special meetings may also be held upon the call of any three members of the commission.

4. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record. The commission shall make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of the City, and shall carry out the other duties and exercise the powers specified in Neb. Rev. Stat. §19-929. All actions by the commission shall be subject to the review and supervision of the mayor and City Council.

Within 30 days after the commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory or zoning, its recommendations shall be made to the City Council. The commission shall be responsible for making such reports and performing such other duties as the Council may designate from time to time.

### **SECTION 1-803: ALTERNATE MEMBER**

The mayor, with the approval of a majority vote of the City Council, shall appoint one alternate member to the commission, who shall serve without compensation and shall hold no other city office. The term of the alternate member shall be three years, and he/she shall hold office until a successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the mayor with the approval of a majority vote of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting. (Ref. Neb. Rev. Stat. §19-924 through 19-929)

## **ARTICLE IX – BOARD OF HEALTH**

### **SECTION 1-901: MEMBERS**

The City Council shall appoint a Board of Health which shall consist of four members: the mayor, the president of the City Council and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the Board's medical advisor. If the mayor has appointed a chief of police, he/she shall serve on the Board as secretary and quarantine officer. The mayor shall act as chairman. The members of the Board shall serve a one-year term of office, unless reappointed, and shall reorganize at the first meeting in December of each year.

### **SECTION 1-902: POWERS AND DUTIES**

1. The Board of Health shall keep a record of all matters transacted at its meetings and all actions taken by it, which records shall be filed with the city clerk and be part of the public records of the City. A majority of the Board shall constitute a quorum.

2. The Board is authorized and directed to make all necessary rules and regulations relating to matters of sanitation to safeguard the health of the people of the City, providing fines and punishments for the violations thereof. It shall suppress and prevent the occurrence of nuisances and enforce all laws of the State and ordinances of the City relating to matters of sanitation, including the removal of dead animals, and sanitary conditions of the streets, alleys and vacant grounds, private and public stockyards and all other buildings and places where filth, nuisances or offensive matter is kept or is liable to and does accumulate. The Board shall also have control of hospitals, dispensaries, places for treatment of the sick, and matters relating to the same under such restrictions, and provisions as may be provided by ordinance.

(Ref. Neb. Rev. Stat. §17-121)

**SECTION 1-903: DEPOSITING OR PERMITTING DEPOSIT OR ACCUMULATION OF ANY SUBSTANCE DETRIMENTAL TO HEALTH OR OFFENSIVE TO SMELL; PENALTY**

It shall be unlawful for any person to deposit or permit the deposit or accumulation of any garbage, refuse of any kind or article or thing which is detrimental to health or from which obnoxious or offensive odors arise, on the streets, alleys or public grounds or on any private premises including enclosures in which livestock is kept within the City. Any person who violates this section and shall fail to remove such objectionable substances or otherwise comply with the orders of the Board of Health with reference thereto within 24 hours from the receipt of written notice thereof, upon conviction shall be fined in a sum not to exceed \$500.00 for each offense, and the offensive matter shall be ordered removed by or at the expense of the defendant. Each 24-hour failure to comply with the orders of the Board of Health shall constitute a separate and distinct offense.

**ARTICLE X – TREE BOARD**

**SECTION 1-1001: CREATION AND ESTABLISHMENT OF TREE BOARD**

There is hereby created and established a Tree Board for the City, which shall consist of five members. Such members shall be appointed by the mayor with the approval of the City Council.

**SECTION 1-1002: TERMS OF OFFICE**

The term of each Tree Board member shall be three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by the mayor with the approval of the City Council for the unexpired term.

**SECTION 1-1003: COMPENSATION**

Members of the Tree Board shall serve without compensation.

**SECTION 1-1004: DUTIES AND RESPONSIBILITIES**

It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the City Council and, upon its acceptance and approval, shall constitute the official comprehensive city tree plan. The Tree Board, when requested by the Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

**SECTION 1-1005: OPERATION**

The Tree Board shall choose its own officers, make its own rules and regulations and keep a minute book of its proceedings. A majority of its members shall constitute a quorum for the transaction of business.

## **SECTION 1-1006: INTERFERENCE WITH TREE BOARD**

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

## **SECTION 1-1007: REVIEW BY CITY COUNCIL**

The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any ruling or order of the Tree Board to the Council. Such appeal must be in writing and must be filed with the city clerk, who shall place the appeal on the agenda for the next regular meeting for consideration. The Council shall decide the appeal, and such decision shall be final.

## **SECTION 1-1008: DEFINITIONS**

"Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways with the City.

"Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

"Private community forest" is herein defined as all trees within city boundaries but not owned by the City.

"Public community forest" is herein defined as all street and park trees owned by the City as a total resource.

## **SECTION 1-1009: STREET TREE SPECIES TO BE PLANTED**

The tree list adopted by the Tree Board and published by it constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the Tree Board.

## **SECTION 1-1010: SPACING**

The spacing of street trees will be in accordance with the three species size classes listed in the tree list, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

## **SECTION 1-1011: DISTANCE FROM CURB AND SIDEWALK**

The distance which trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in the tree list, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.

## **SECTION 1-1012: DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS**

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten feet to any fire hydrant.

## **SECTION 1-1013: UTILITIES**

No street trees other than those species listed as small trees in the tree list may be planted under or within ten lateral feet of any overhead utility wire or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

## **SECTION 1-1014: PUBLIC TREE CARE**

The City shall have the right to plant, subject to Section 1-1013 herein, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article.

## **SECTION 1-1015: CONSENT OF PROPERTY OWNER**

The Tree Board shall plant no trees on public right of way without the consent of the adjacent property owners. Such consent shall be in writing and shall be maintained as part of the official tree board records.

## **SECTION 1-1016: TREE TOPPING**

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Tree topping on private property is strongly discouraged. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this article at the determination of the Tree Board.

## **SECTION 1-1017: PRUNING, CORNER CLEARANCE**

Every owner of any tree overhanging any street or right of way within the City shall prune the branches so that they shall not obstruct the light from any street lamp or obstruct the view of any street intersection. There shall also be a clear space of eight feet above the surface of the street or sidewalk.

## **SECTION 1-1018: DEAD OR DISEASED TREE REMOVAL; PRIVATE PROPERTY**

1. All trees that are in a diseased, dying or dead condition are declared to be a public nuisance and shall be removed by the property owner from the private property on which they are located. For the purpose of carrying out the provisions of this section, the Tree Board shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the

owner of the property by mail or personal service. Such notice shall allow the said owner 60 days to remove the said tree or trees.

2. In the event that the owner is a non-resident, notice shall be made by publication in a newspaper of general circulation or by certified mail if the name and address are known. The person charged with the removal may enter into an agreement with the City that such work be accomplished by the City and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement or to remove the trees, the Tree Board may enter upon the property and proceed to direct the removal of the trees; the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the costs shall be assessed against the property and certified by the city clerk to the county treasurer to be collected in the manner prescribed by law.

3. In the event the property owner is a non-resident of the county in which the property lies, before levying any special assessment against that property the City shall send to the last known address of the non-resident property owner, by certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

#### **SECTION 1-1019: REMOVAL OF STUMPS**

All stumps of street and park trees shall be removed so that the top of the stump does not project above the surface of the ground.

#### **SECTION 1-1020: ARBORIST'S LICENSE**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be \$25.00 annually in advance, provided that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 for property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### **ARTICLE XI – PARKS AND SWIMMING POOL**

#### **SECTION 1-1101: PARKS; OPERATION AND FUNDING**

The City owns and operates the city parks and other recreational areas through the City Council, which shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City.

#### **SECTION 1-1102: PARKS; INJURY TO PROPERTY**

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub. It shall be unlawful for any person to injure or destroy any sodded

or planted area or any building, structure, equipment, fence, bench, table or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds. (Neb. Rev. Stat. §17-948, through 17-952)

### **SECTION 1-1103: PARKS; HOURS**

All public parks within the corporate limits of the City shall be closed daily to the public between the hours of 11:00 P.M. of one day and 6:00 A.M. of the following day. It shall be unlawful for any person to enter upon, remain in, loiter, wander, stroll, loaf, play in or in any manner utilize the public parks in the City during such hours. Persons utilizing the camping facilities in the park, having paid all applicable fees, are exempt from these regulations. (Am. by Ord. No. 699, 5/9/17)

### **SECTION 1-1104: SWIMMING POOL; OPERATION AND FUNDING**

The City owns and manages the city swimming pool through the City Council, which shall have the power and authority to hire and supervise the swimming pool manager and such employees as may be deemed necessary. The Council shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. (Neb. Rev. Stat. §17-948, 17-951, 17-952)

### **SECTION 1-1105: SWIMMING POOL; ADMISSION CHARGE**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, set reasonable admission charges for use of the city swimming pool. The said charges shall be on file at the office of the city clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner, provided that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

### **SECTION 1-1106: SWIMMING POOL; RENTALS**

The City Council shall have the authority to rent the city swimming pool to such organizations and other persons as they may see fit in their discretion. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the city clerk and posted in a conspicuous place at the swimming pool. (Neb. Rev. Stat. §7-949)

### **SECTION 1-1107: SWIMMING POOL; RULES AND REGULATIONS**

The City Council shall have the power and authority to enact by-laws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. Suitable penalties may be provided for the violation of such by-laws, rules and regulations. (Neb. Rev. Stat. §7-949)

## **ARTICLE XII – LIBRARY BOARD**

## **SECTION 1-1201: LIBRARY BOARD**

1. The City owns and manages the library through the Library Board, which shall consist of five residents of the City appointed by the City Council. Each member of the Board shall serve a four-year term of office and may serve no more than two consecutive terms. No member of the City Council shall serve as a member of the Library Board while serving a term of office on the Council. The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.

2. At the time of the Board's first meeting in June of each year, the members shall organize by selecting from their number a chairman and secretary. No member of the Board may serve as both chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk, where they shall be available for public inspection at any reasonable time. A majority of the board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairman or any three members of the Board.

## **SECTION 1-1202: DUTIES**

The Library Board shall have the authority to appoint a librarian and any other employees. It shall be the duty of the Board to have general charge of the city library and to establish appropriate rules and regulations for its management, operation and use. The Board shall have supervisory authority over all employees of the library, including the librarian. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the City Council may designate from time to time.

## **SECTION 1-1203: BOOKS**

The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library. Records shall be kept of any such books so disposed of.

## **SECTION 1-1204: RULES AND REGULATIONS**

The Library Board shall establish rules and regulations for the governing of the library for the preservation and efficient management thereof. The Board shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books or other property, or for failure to return a book. All fees, penalties and forfeitures may be collected in civil action in the event of failure, neglect or refusal to pay the said assessments.

## **SECTION 1-1205: COST OF USE**

There shall be no cost or charge for use of the library by residents of the City. The librarian may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with the rules and regulations established for the government thereof.

## **SECTION 1-1206: DAMAGED AND LOST BOOKS**

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book, in addition to any replacement cost and penalty which the Library Board may assess.

## **SECTION 1-1207: BOOK REMOVAL**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the librarian or an authorized employee. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of a misdemeanor.

## **SECTION 1-1208: MONEY COLLECTED**

Any money collected by the library shall be turned over monthly by the librarian to the city treasurer, along with a report of the sources of the revenue.

## **SECTION 1-1209: ANNUAL REPORT**

On or before the second Monday in February in each year, the Library Board shall make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information and suggestions as the Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the Library Board. (Ref. Neb. Rev. Stat. §51-213)

## **ARTICLE XIII – CEMETERY BOARD**

(Article am. by Ord. No. 574, 1/13/09)

### **SECTION 1-1301: MEMBERS**

The Cemetery Board shall consist of six members appointed by the mayor with the consent of the City Council from the citizens at large. Every new or reappointed member shall serve a term of three years. Board members shall be removable only for good and sufficient cause by the City Council, after public hearing. The Board shall serve without compensation. (Am. by Ord. No. 676, 6/9/15)

### **SECTION 1-1302: OFFICERS; MEETINGS**

The members of the Cemetery Board may select such officers from among their own number as they may deem necessary. The City Council shall adopt rules under which the Cemetery Board shall conduct its meetings or, in the alternative, the Board may adopt rules under which it shall conduct its meetings, with the approval of the Council. It shall be the duty of the Board to keep full and correct minutes of all meetings and to file the

same with the city clerk within ten days of such meeting, where they shall be available for public inspection.

### **SECTION 1-1303: POWERS, DUTIES**

The Cemetery Board shall have entire control and management of any cemeteries belonging to the City. The Board shall establish appropriate rules and regulations for the management, use and operation of municipal cemeteries. The Board shall be responsible for making such reports and performing such other duties as the City Council from time to time may designate.

## **ARTICLE XIV – BOARD OF ADJUSTMENT**

### **SECTION 1-1401: MEMBERS**

1. The mayor shall appoint, with the consent of the City Council, a Board of Adjustment consisting of five regular members plus one additional member, designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason.

2. Each member shall be appointed for a term of three years and shall be removable for cause by the mayor upon written charges and after a public hearing. The unexpired term of any member whose term becomes vacant shall be filled by the mayor and approved by the City Council.

3. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commission member to the Board of Adjustment.

4. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. Neither the mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

### **SECTION 1-1402: MEETINGS; QUORUM; OFFICERS**

1. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. All meetings of the Board shall be open to the public. A majority of the Board shall constitute a quorum for the purpose of doing business.

2. The Board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and shall elect from its membership a chairperson and secretary. No member of the Board shall serve in the capacity of both

chairperson and secretary. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. It shall be the duty of the secretary to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the mayor and City Council may designate.

### **SECTION 1-1403: DUTIES; COMPENSATION; BOND**

The Board shall adopt rules in accordance with the provisions of this Article and Neb. Rev. Stat. §19-901 to 19-914. The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties.

### **SECTION 1-1404: POWERS**

The Board shall have only the following powers:

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception;

2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and

3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

### **SECTION 1-1405: VARIANCES**

1. No such variance shall be authorized by the Board unless it finds that:

- A. The strict application of the zoning regulation would produce undue hardship;
- B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- D. The granting of such variance is based upon reason of demonstrable and

exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

### **SECTION 1-1406: APPEALS**

Appeals to the Board may be taken by any aggrieved person or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Ref. Neb. Rev. Stat. §19-909)

### **SECTION 1-1407: DECISIONS ON APPEALS**

1. In exercising the powers granted in this Article, the Board may, in conformity with Neb. Rev. Stat. §19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

2. Appeals from a decision by the Board may be taken as provided in Neb. Rev. Stat. §19-912.

## **ARTICLE XV – COMMUNITY REDEVELOPMENT AGENCY**

(Article amended by Ord. No. 570, 11/11/08)

### **SECTION 1-1501: CREATION OF AGENCY; MEMBERS**

There is hereby established, pursuant to Neb. Rev. Stat. §18-2101.01, a community development agency for the City of Valley. The mayor and City Council are hereby designated to be members of the Community Development Agency for the City.

## **SECTION 1-1502: OFFICERS**

The mayor shall be the chairperson of the Community Development Agency; the president of the City Council shall be the vice-chairperson; and the city clerk shall be the secretary.

## **SECTION 1-1503: POWERS**

The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. Rev. Stat. §18-2101 to 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee or as an agent or otherwise under the provisions of the Federal Housing and Community Development Act of 1974, as amended, through the Housing and Community Development Amendments of 1981. The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

## **SECTION 1-1504: TRANSFER OF RIGHTS, PROPERTY AND OBLIGATIONS**

All of the rights and property, both real and personal, of the existing Valley Community Redevelopment Authority and all obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt of said Authority are hereby transferred to and assumed by the Community Development Agency of Valley which is created pursuant to this ordinance.

## **SECTION 1-1505: AFFIRMATION OF PRIOR OBLIGATIONS**

All obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt previously issued in the name of the Community Development Agency of the City of Valley are hereby affirmed as though issued after the adoption of this ordinance.

## **ARTICLE XVI – FAIR HOUSING BOARD**

### **SECTION 1-1601: PURPOSE**

The City Council hereby declares it to be the public policy of this city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent, finance or obtain funding or real property without regard to race, color, sex, religion, national origin or ancestry.

### **SECTION 1-1602: DEFINITIONS**

“Person” shall mean one or more individuals, partnerships or other organizations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

“Unlawful discriminatory housing practice” shall mean any discrimination or segregation against any person or group of persons because of race, color, sex, religion, national origin or ancestry, and shall include only those unlawful practices and acts as set forth herein.

“Housing accommodations” shall mean any building or portion thereof, whether such building or portion is constructed to be used or is intended for use as the residence or sleeping place of one or more persons. “Housing accommodations” shall not mean or include: (1) the rental of a dwelling or portion thereof containing accommodations for no more than five families, one of which is occupied by the owner or his/her family at the time of the rental; (2) the rental of rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodation in which he/she or members of his/her family reside.

“Owner” shall mean and include the owner, lessee, sub-lessee, assignee, manager, agent or other person, firm or corporation having the right to sell, rent or lease any housing accommodations or real property within the corporate limits of the City.

## **ARTICLE XVII – PENAL PROVISION**

### **SECTION 1-1701: VIOLATION; PENALTY**

Anyone violating any of the terms and conditions of the foregoing Chapter and Articles shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.