

Article 5. Meetings

§1-501 MEETINGS; DEFINED:

Meetings, as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (*Ref 84-1409(2) RS Neb*) (*Ord 385, 3/22/76*) (*Amended by Ord 479, 11/28/83*)

§1-502 MEETINGS; PUBLIC BODY DEFINED:

Public Body as used in this Article shall mean:

- A. The Governing Body of the Municipality,
- B. All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law, and
- C. Advisory committees of the bodies listed above.

This Article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (*Ref 84-1409(1) RS Neb*) (*Ord 385, 3/22/76*) (*Amended by Ords 479, 11/28/83; 596, 7/12/93*)

§1-503 MEETINGS; OPEN TO PUBLIC; NOTICE; AGENDA:

(A) The formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. (*Neb. RS 84-1408*)

(B) (1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in division (B)(2) of this section. The notice shall be transmitted to all members of the public body and to the public.

(2) The notice shall be published by:

(a) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site; or

(b) Posting written notice in 3 conspicuous public places in the (city/village). The notice shall be posted in the same 3 places for each meeting.

(3) In addition to a method of notice required by division (B)(2) of this section, the notice shall also be provided by any other appropriate method designated by the public body.

(4) Each public body shall record the methods and dates of the notice in its minutes.

(5) The notice shall contain an agenda of subjects known at the time of the

publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the (City Council/Board of Trustees) scheduled outside the corporate limits of the (city/village). The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting. (*Neb. RS 84-1411*) (*Amended Ord 1000, 8/9/2021*)

§1-504 MEETINGS; CLOSED SESSIONS:

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

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

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

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

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

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the

provisions of this Article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this Article.

(5) The provisions of this Article 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 84-1410 RS Neb) (Ord 385, 3/22/76) (Amended by Ords 479, 11/28/83; 597, 7/12/93; 644, 4/24/95)*

§1-505 MEETINGS; EMERGENCY MEETINGS:

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of section 1-508 of this Article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. *(Ref 84-1411 RS Neb) (Ord 385, 3/22/76) (Amended by Ord 479, 11/28/83)*

§1-506 MEETINGS; MINUTES:

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes shall be public records and open to public inspection during normal business hours.

Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier. *(Ref 84-1412, 84-1413 RS Neb) (Ord 385, 3/22/76)*

§1-507 MEETINGS; VOTES:

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

The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. *(Ref 17-616, 84-1413 RS Neb) (Ord 385, 3/22/76) (Amended by Ord 419, 10/9/78)*

§1-508 MEETINGS; NOTICE TO NEWS MEDIA:

The Municipal Clerk, Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. (*Ref 84-1411 RS Neb*) (*Ord 385, 3/22/76*)

§1-509 MEETINGS; PUBLIC PARTICIPATION:

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 and all or any part of a meeting of a public body except for closed meetings called pursuant to section 1-504 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.

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 or herself. No public body shall for the purpose of circumventing the provisions of this Article hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this State. An agency which contracts with municipalities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with sections 84-1408 to 84-1414 RS Neb. 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 (1) copy of all reproducible written material to be discussed at an open meeting. (*Ref 84-1412, 18-2438 RS Neb*) (*Ord 385, 3/22/76*) (*Amended by Ords 479, 11/28/83; 517, 10/12/87; 530, 10/26/87*)

§1-510 MEETINGS; GOVERNING BODY: (*Repealed by Ord 518, 10/12/87*)

§1-511 MEETINGS; ORDER OF BUSINESS:

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

§1-512 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 Municipal election is held and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his successor in office all property, records, papers and moneys, belonging to the same. *(Ref 17-107.02(9) RS Neb) (Amended by Ord 386, 3/22/76)*

§1-513 MEETINGS; ORGANIZATIONAL:

The newly elected Council shall convene at the regular place of meeting in the City on the first (1st) regular meeting in December of each year in which a Municipal election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first (1st) regular meeting in December following his election. All appointive officers shall qualify within two (2) weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the Municipality and to perform faithfully and impartially the duties of his office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon. *(Amended by Ord 382, 3/22/76)*

§1-514 MEETINGS; REGULAR MEETING; WHEN; QUORUM; VOTES:

(A) (1) Regular meetings of the City Council shall be held at such times as the Council may provide by ordinance. A majority of all the members elected to the Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. When the City Council consists of 4 members as established by ordinance or home rule charter, the Mayor shall be deemed a member of the City Council for purposes of establishing a quorum when the Mayor's presence is necessary to establish the quorum. Unless a greater vote is required by law, an affirmative vote of at least ½ of the elected members shall be required for the transaction of any business.

(2) The meetings of the City Council shall be held in the meeting place of the Municipality. Regular meetings shall be held on the second (2nd) and fourth (4th) Mondays of each month at the hour of seven (7:00) o'clock p.m. *(Ref 17-105; 17-106 RS Neb) (Ord 518, 10/12/87) (Amended by Ord 908 2/25/2013; 1001, 8/9/2021)*

§1-515 MEETINGS; SPECIAL MEETING; WHEN; QUORUM; VOTES:

(A) (1) The Mayor or any 3 Council members shall have power to call special meetings of the City Council, the object of which shall be submitted to the Council in writing; and the call and object, as well as the disposition thereof, shall be entered upon the journal by the City Clerk.

(2) On filing the call for a special meeting, the City Clerk shall notify the Mayor and Council members of the special meeting, stating the time and purpose.

(B) Unless otherwise provided by the Council, on the request of any 2 members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(C) At the hour appointed for a 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. *(Ref 17-105; 17-106 RS Neb) (Ord 518, 10/12/87) (Amended by Ord 908 2/25/2013; 1001, 8/9/2021)*

Article 6. Ordinances, Resolutions, and Motions

§1-601 ORDINANCES; RULES, AND RESOLUTIONS; GRANT OF POWER:

The Governing Body may make all ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and manufactories. (*Ref 17-505 RS Neb*) (*Amended by Ord 688, 11/24/97*)

§1-602 RESOLUTIONS AND MOTIONS; PROCEDURE.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one (1) time in the presence and hearing of a majority of the members elected to the Council. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

§1-603 ORDINANCES; STYLE:

The style of all Municipal ordinances shall be:

"Be it ordained by the Mayor and Council of the City of Pawnee City, Nebraska:"

(*Ref 17-613 RS Neb*)

§1-604 ORDINANCES; TITLE:

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

§1-605 ORDINANCES; RESOLUTIONS, ORDERS, BYLAWS; READING; PASSAGE:

(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 all members elected to 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. Ordinances of a general or permanent nature shall be read by title on three (3) different days unless three-fourths (3/4) of the City Council vote to suspend this requirement, except that requirement shall not be suspended for any ordinance for the annexation of territory. In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths (3/4) of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section. (*Neb RS 17-614*)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or

adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public. (*Neb RS 17-616*) (*Amended by Ord 916, 3/24/2014*)

§1-606 ORDINANCES; PUBLICATION OR POSTING:

All ordinances of a general nature shall, before they take effect, be published one (1) time, within fifteen (15) days after they are passed:

(1) In some newspaper published in the Municipality or, if no paper is published in the Municipality, then by posting a written or printed copy in each of three (3) public places in the Municipality; or (2) In book or pamphlet form. (*Ref 17-613 RS Neb*) (*Amended by Ords 522, 10/12/87; 691, 11/24/97*)

§1-607 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING:

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

§1-608 ORDINANCES; EFFECTIVE DATE; EMERGENCY ORDINANCES:

(1) Except as provided in subsection (2) of this section, an ordinance for the government of the Municipality which has been adopted by the Governing Body without submission to the voters of the Municipality shall not go into effect until fifteen (15) days after the passage of the ordinance.

(2) In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency ordinance shall recite the emergency, be passed by a three-fourths (3/4) vote of the Governing Body, and be entered of record on the Municipal Clerk's minutes. (*Ref 17-613, 19-3701 RS Neb*) (*Amended by Ord 692, 11/24/97*)

§1-609 ORDINANCES; AMENDMENTS AND REVISIONS:

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the Municipality and modifications to zoning or building districts may be adopted as otherwise provided by law. (*Ref 17-614 RS Neb*) (*Amended by Ord 693, 11/24/97*)

Article 7. Elections

§ 1-701 ELECTIONS; GENERALLY:

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

(2) When the Municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the Municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the Municipality. *(Ref 32-404 RS Neb) (Amended by Ords 387, 3/22/76; 407, 10/24/77; 812, 12/27/05)*

1-701.01 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED:

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or the County Clerk, on forms prescribed by such official, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. *(Ref 32-404 RS Neb) (Ord 812, 12/27/05)*

§ 1-702 ELECTIONS; TERM OF OFFICE:

All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. *(Ref 17-107.02 (2) RS Neb)(Ord 387, 3/22/76) (Amended by Ord 447, 10/26/81)*

§1-703 ELECTIONS; PRIMARY ELECTION, NUMBER OF CANDIDATES FILING:

If the number of candidates properly filed for nomination at the primary election does not exceed two (2) for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required. *(Ref 17-107.02(4) RS Neb) (Ord 387, 3/22/76)*

§1-704 ELECTIONS; PRIMARY ELECTION, WRITE-IN CANDIDATES: *(Repealed by Ord 429, 10/22/79)*

§1-705 ELECTIONS; TIE VOTES:

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (*Ref 17-107.02(6) RS Neb*) (*Ord 387, 3/22/76*)

§1-706 ELECTIONS; GENERAL ELECTION, PREPARATION OF BALLOT:

When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the County Clerk, in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election. The County Clerk shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the name of the candidates shall be placed upon the general election ballot in the order of their filing.

(*Ref 17-107.02(6) & (7) RS Neb*) (*Ord 387, 3/22/76*) (*Amended by Ord 448, 10/26/81*)

§1-707 ELECTIONS; ELECTION TO TERMS: (*Repealed by Ord 448, 10/26/81*)

§1-708 ELECTIONS; FILING FEE:

(A) Except as provided in division (D) or (E) of this section, a filing fee shall be paid to the City of Pawnee City Treasurer by or on behalf of each candidate for City of Pawnee City office prior to filing for office. The fee shall be placed in the general fund of the village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the City of Pawnee Treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(B) Except as provided in division (D) or (E) of this section, the filing fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate.

(C) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within ten days after the canvass of votes by the county canvassing board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

(D) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.

(E) (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.

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

AVAILABLE RESOURCES. Includes every type of property or interest in property that that an individual owns and may convert into cash except:

- (i) Real property used as a home;
- (ii) Household goods of a moderate value used in the home; and
- (iii) Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

PAUPER. A person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

(F) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the City Council prior to the date of the election. Upon approval of the claim by the City Council the filing fee shall be refunded. (*Neb RS 32-608*) (*Amended by Ord 920 3/23/2015*)

§1-709 ELECTIONS; JOINT, GENERAL, NOTICE:

The County Clerk shall publish in a newspaper designated by the County Board the notice of the election no less than forty (40) days prior to the Primary or General Election. This notice will serve the notice requirement for all Municipal Elections which are held in conjunction with the County. (*Ref 32-402.01 RS Neb*) (*Amended by Ords 388, 3/22/76; 403, 3/28/77*)

§1-710 ELECTIONS; SPECIAL:

(1) (a) Except as provided in section 77-3444 RS Neb, 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 sections 32-952 through 32-959 RS Neb. Any other special election shall be subject to division (2) of this section.

(b) 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.

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

shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council. *(Ref 32-559 RS Neb)*

(2) Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. No special election shall be held under the Election Act in September of an even-numbered year except for a special election by a political subdivision pursuant to Neb. RS 13-519 or Neb. RS 77-3444 to approve a property tax levy or exceed a property tax levy limitation. *(Ref 32-405 RS Neb) (Amended by Ords 494, 10/8/84; 694, 11/24/97; 801, 3/8/04; 1002, 8/9/2021)*

§1-711 ELECTIONS; PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES:

(A) (1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and section. Neb RS 32-621 or by nomination by political party convention or committee pursuant to section Neb RS 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under section RS Neb 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) of this section, or files as a write-in candidate as prescribed in Neb RS 32-615, or is nominated by political party convention or committee pursuant to section Neb RS 32-710. *(Ref 32-616 RS Neb)*

(B) Petitions for nomination shall conform to the requirements of Neb RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the city, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb RS 32-606. Petition signers and petition circulators shall conform to the requirements of Neb RS 32-629 and Neb RS 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to section Neb RS 32-608. The petitions shall be filed by September 1 in the year of the general election. *(Ref 32-617 RS Neb)*

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least ten percent (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 or in the ward in which the officer is to be elected, not to exceed two thousand (2,000).

(2) The number of signatures of registered voters needed to place the name of a candidate for an office upon the partisan ballot for the general election shall be at least ten percent (10%) of the registered voters entitled to vote for the office. *(Ref 32-618 RS Neb) (Amended by Ord Ns. 921, 3/23/2015 & Ord 937, 3/13/2017)*

§1-712 ELECTIONS; COUNCILMEN:

Councilmen shall be elected from the Municipality at large unless the residents of the Municipality have voted to elect its Councilmen by wards. Councilmen shall serve for a term of four (4) years and shall be a resident and qualified elector. If the election of Councilmen takes place by wards, each nominee for Councilman shall be a resident and qualified elector of the ward for which he is a candidate, and only residents of that ward may sign the candidate's nomination petitions. *(Ref 5-108 RS Neb)*

§1-713 ELECTIONS; VOTER QUALIFICATIONS:

Electors shall mean every person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State 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 17-602, 32-102 RS Neb)*

§1-714 ELECTIONS; OFFICIALS: *(Repealed by Ord 714, 10/26/98)*

§1-715 ELECTIONS; OFFICIALS OATH: *(Repealed by Ord 714, 10/26/98)*

§1-716 ELECTIONS; BALLOTS:

It shall be the duty of the County Clerk to 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 Municipality. *(Ref 32-417, 32-418 RS Neb)*

§1-717 ELECTIONS; CERTIFICATE OF ELECTION: *(Repealed by Ord 812, 12/27/05)*

§1-718 ELECTIONS; 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 was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next 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 thirty-five (35%) percent 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 winners 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. *(Ref 32-537 (7), (8) RS Neb)*

§1-719 ELECTIONS; RECOUNT OF BALLOTS:

The losing candidate for any office at the Municipal election may request a recount of the ballots cast when the official canvass of such votes cast reveals that there is a difference of twenty-five (25) votes or less between the total cast for the winner and the loser. Such recount shall be made if the losing candidate files a written request therefor with the Municipal Clerk within three (3) days following the completion of the official canvass. (*Ref 19-3042 through 19-3050 RS Neb*)

§1-720 ELECTIONS; RECALL PROCEDURE:

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

FILING CLERK. The Election Commissioner or County Clerk. (*Ref 32-1301 RS Neb*)

(B) (1) The Mayor, any member of the City Council, and any other elected official of the city may be removed from office by recall pursuant to this section.

(2) The recall procedure and special election provisions of this section shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election. (*Neb. RS 32-1302*)

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

(2) Petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing clerk by at least 1 registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the official sought to be removed, shall include in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the official sought to be removed by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the filing form at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the filing form. The filing clerk shall prepare the petition papers within 5 business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within 20 days after being notified

by the filing clerk that the petition papers are available. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

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

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

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

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

(F) (1) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. Notification of the official sought to be removed may be by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address.

(2) The City Council shall, within 21 days after receipt of the notification from the filing clerk pursuant to division (F)(1) of this section, order an election. The date of the election shall be the first available date that complies with Neb. RS 32-405 and that can be certified to the election commissioner or county clerk at least 50 days prior to the election, except that if any other election is to be held in the city within 90 days after such notification, the City Council shall provide for the holding of the recall election on the same day.

(3) All resignations shall be tendered as provided in Neb. RS 32-562. If the official whose removal is sought resigns before the recall election is held, the City Council may cancel the recall election if the City Council notifies the election commissioner or county clerk of the cancellation at least 24 days prior to the election, otherwise the recall election shall be held as scheduled.

(4) If the City Council fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the elected official serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election. (*Neb. RS 32-1306*)

(G) The form of the official ballot at a recall election held pursuant to division (F) of this section shall conform to the requirements of Neb. RS 32-1307.

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

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. RS 32-567 to 32-570 and 32-574.

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

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

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. (*Neb. RS 32-1308*)

(I) No recall petition filing form shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within 6 months after the beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for the office.

(*Neb. RS 32-1309*) (*Ord 428, 10/22/79*) (*Amending Ord 494, 10/8/84; 742, 7/12/99; 792, 11/24/03; 802, 3/8/04; 897, 1/23/12; 974-12/23/2019; 1010, 8/9/2021*)

§1-721 ELECTIONS; CANDIDATE QUALIFICATIONS:

Any person seeking elected office in the Municipality shall be a registered voter prior to holding such office and in addition shall have reached the age of majority. The Mayor and members of the Council shall be residents and qualified electors of the City. They shall not hold any other public elective public office, except for officers of public power districts, public power and irrigation districts, and public utility companies. *(Ref 17-108.02, 32-4,157 RS Neb) (Amended by Ord 494, 10/8/84)*

§1-722 ELECTIONS; EXIT POLLS:

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within twenty (20') feet of the entrance of any polling place room or, if inside the polling place building, within one hundred (100') feet of any voting booth. *(Ref 32-1221 RS Neb) (Ord 519, 10/12/87)*