

Article 8. Compensation

§1-801 COMPENSATION; MUNICIPAL OFFICIALS:

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

§1-802 COMPENSATION; CONFLICT OF INTEREST:

For purposes of this section officer shall mean (a) any member of any Board or Commission of the Municipality, (b) any Appointed Official if such Municipal Official (i) serves on a Board or Commission which spends and administers its own funds and (ii) is dealing with a contract made by such Board or Commission, or (c) any elected Municipal Official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

No officer of the Municipality shall be permitted to benefit from any contract to which the Municipality 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 Municipality or by any resident thereof and must be brought within one (1) 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 Municipality 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: (1) in which the individual is a partner, director, or officer or (2) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth one thousand (\$1,000.00) dollars or more at fair market value or which represents more than five (5%) percent equity interest, or is a stockholder of publicly traded stock worth ten thousand (\$10,000.00) dollars or more at fair market value or which represents more than ten (10%) percent equity interest or (b) will receive a direct pecuniary fee or commission as a result of the contract; provided however, if such officer (a) is an employee of the business involved in the contract and (b) has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this section.

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 or 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 Board declaring an interest in the contract would prevent the Board, 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 Municipality as to inspection or performance under the contract in which he or she has an interest.

The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any Municipality by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than five (5%) percent 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 Municipality, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections 1 through 5 below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. 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 Municipality.

The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in subsections 1 through 5 of this section about every contract entered into by the Municipality 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 (5) years from the date of the officer's last day in office and shall include the:

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

The information supplied relative to the contract shall be provided to the Clerk not later than ten (10) days after the contract has been signed by both parties. The ledger kept by the Clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

An open account established for the benefit of any Municipality 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 (10) 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.

Any officer who knowingly violates the provisions of sections 49-14,103.01 through 49-14,103.03 RS Neb, shall be guilty of a Class III misdemeanor. Any officer who negligently violates sections 49-14,103.01 through 49-14,103.03 RS Neb shall be guilty of a Class V misdemeanor.

The Municipality may enact ordinances exempting from the provisions of this section, contracts involving one hundred (\$100.00) dollars or less in which an officer of such Municipality may have an interest.

No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the Municipality other than his or her salary. The Governing Body 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 Municipality. *(Ref 17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04 RS Neb) (Amended by Ords 464, 9/13/82; 480, 11/28/83; 495, 10/8/84; 523, 10/12/87)*

Article 9. Initiative and Referendum

[Editor's Note: Article 9 was adopted in its entirety by Ordinance No 463, Passed on 9/13/82; Sections 1-901 - 905, 1-908 - 1-1014 were Amended by Ordinance 496, Passed on 10/8/84]

§1-901 INITIATIVE AND REFERENDUM; DEFINITIONS:

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

CIRCULATOR shall mean any person who solicits signatures for an initiative or referendum petition.

CLERK shall mean the Municipal Clerk or the Municipal Official in charge of elections.

GOVERNING BODY shall mean the legislative authority of the Municipality.

MEASURE shall mean an ordinance, charter provision, or resolution which is within the legislative authority of the Governing Body to pass, and which is not excluded from the operation of referendum by the exceptions in section 1-912.

MUNICIPALITY shall mean the City of Pawnee City, Nebraska.

PETITION shall mean a document authorized for circulation pursuant to section 1-902, or any copy of such document.

PLACE OF RESIDENCE shall mean the street and number of the residence. If there is no street and number for the residence, place of residence shall mean the mailing address.

PROSPECTIVE PETITION shall mean a sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

QUALIFIED ELECTORS shall mean all persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

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

SIGNATURE SHEET shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort. (*Ref 18-2501 through 18-2511 RS Neb*)

§1-902 INITIATIVE AND REFERENDUM; PETITIONS, BALLOTS:

Before circulating an initiative or referendum petition, the petitioner shall file with the Clerk a prospective petition. The Clerk shall date the prospective petition immediately upon its receipt. The Clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, as described below. If the prospective petition is in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within three (3) working days from

the date the prospective petition was filed. If the form of the prospective petition is incorrect, the Clerk shall, within three (3) working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the Clerk in proper form, the Clerk shall authorize the circulation of the petition and such authorization shall be given within two (2) working days from the receipt of the properly revised petition. Verification by the Clerk that the prospective petition is in proper form does not constitute an admission by the Clerk, Governing Body, or Municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative

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

- A. A briefly-worded caption by which the measure is commonly known or which Accurately summarizes the measure;
- B. A briefly-worded question which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and
- C. A concise and impartial statement, of not more than seventy-five (75) words, of the chief purpose of the measure.

The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lower case ten point type, except that the caption shall be in bold face type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization. (*Ref 18-2512, 18-2513 RS Neb*)

§1-903 INITIATIVE AND REFERENDUM; PETITIONS; FORM:

(1) The forms designed by the Secretary of State to be used for initiative and referendum petitions shall be made available to the public by the City Clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the City Clerk. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted. (*Ref 18-2514 RS Neb*)

(2) Each petition presented for signature must be identical to the petition authorized for circulation by the City Clerk. Every petition shall contain the name and place of residence of not more than three (3) persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the municipality potentially affected by the initiative or referendum proposal. Every petition shall contain the caption and the statement specified to be part of the ballot title. When a special election is being requested, such fact shall be stated on every petition. *(Ref 18-2515 RS Neb) (Amended by Ord 803, 3/8/04)*

§1-903.01 INITIATIVE AND REFERENDUM; DECLARATORY JUDGMENT:

(1) The city or any chief petitioner may seek a declaratory judgment regarding any questions arising under this Article, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the city shall be served by personal, residence, or certified mail service upon the chief executive officer or City Clerk. If the city seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served.

(2) Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the City Clerk for signature verification until 40 days from the date the City Council received notification from the verifying official that the necessary signatures have been obtained. If the city does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative, until after it has received such notification, it shall be required to proceed with the initiative or referendum election in accordance with the provisions of this Article. If the city does file such an action prior to receiving such notification, it shall not be required to proceed to hold such election until a final decision has been rendered in the action.

(3) Any action for a declaratory judgment shall be governed generally by sections 25-21,149 through 25-21,164 RS Neb, except that only the city and each chief petitioner shall be required to be made parties. The city, City Clerk, City Council, or any of the city's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five (5) days prior to the election.

(4) The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law. *(Ref18-2538 RS Neb) (Ord 803, 3/8/04)*

§1-904 INITIATIVE AND REFERENDUM; SIGNATURE SHEETS:

Every signature sheet shall:

1. Contain the caption required in subdivision A. of section 1-902 of this Article;
2. Be part of a complete and authorized petition when presented to potential signatories;
3. Provide space for signatories to write their names, residential addresses, and the date of signing; and
4. Contain a statement that anyone falsifying information on a signature sheet shall be subject to penalties provided by law.

No more than twenty-five (25) signatures on each signature sheet shall be counted. In order to be valid, a signature shall be that of an individual registered to vote, at the time of signing, in the jurisdiction governed or to be governed by the measure addressed in the petition. A signature shall include the signatory's full name, his or her place of residence, and the date of signing. No signatory shall use ditto marks as a means of affixing his or her place of residence or date on any petition. A wife shall not use her husband's Christian or given name when she signs a petition and she shall sign her own Christian or given name along with her surname. (*Ref 18-2516 RS Neb*)

§1-905 INITIATIVE AND REFERENDUM; PETITIONS, AFFIDAVIT:

Included in the contents of every petition shall be an affidavit, to be signed by the circulator in the presence of a notary, which states that the circulator is a qualified elector, that each person who signed the petition did so in the presence of the circulator on the date indicated, and that the circulator believes that each signatory was registered to vote in the affected jurisdiction at the time he or she signed the petition and that the circulator believes that each signatory has stated his or her name and place of residence correctly. (*Ref 18-2517 RS Neb*)

§1-906 INITIATIVE AND REFERENDUM; PETITIONS, NOTIFICATION:

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

(2) In order for an initiative or referendum proposal to be submitted to the Governing Body and the voters, the necessary signatures shall be on file with the Clerk within six (6) months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void. (*Ref 18-2518 RS Neb*)

§1-907 INITIATIVE AND REFERENDUM; FREQUENCY OF OCCURRENCE:

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two (2) years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two (2) years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt. *(Ref 18-2519 RS Neb)*

§1-908 INITIATIVE AND REFERENDUM; DIRECT VOTE:

The Executive Officer and Governing Body of the Municipality may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under this Article and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the Clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in this Article for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast. *(Ref 18-2520 RS Neb)*

§1-909 INITIATIVE AND REFERENDUM; ELECTIONS:

The Clerk shall call elections under this Article, either at a special election or regularly scheduled primary or general election. He or she shall cause notice of every such election to be printed in one (1) or more newspapers of general circulation in such Municipality at least once not less than thirty (30) days prior to such election and also posted in the office of the Clerk and in at least three (3) conspicuous places in such Municipality at least thirty (30) days prior to such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the _____ day of _____, 19____, at (identify polling place or precinct) of the Municipality of _____, Nebraska, an election will be held at which there will be submitted to the electors of the Municipality for their approval or rejection, the following measures, propositions, or issues:

(naming measures, propositions, or issues), which election will be open at 8:00 a.m. and will continue open until 8:00 p.m., of the same day. Dated this _____ day of _____, 19____.

Clerk of the City of
Pawnee City, Nebraska

The Clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained. *(Ref 18-2521 RS Neb)*

§1-910 INITIATIVE AND REFERENDUM; BALLOTS:

All ballots for use in special elections under this Article shall be prepared by the Clerk and furnished by the Governing Body, unless the Governing Body contracts with the County for such service, and shall be in form the same as provided by law for election of the Executive Officer and Governing Body of such Municipality. When ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election they shall be placed upon the official ballots as provided in this Article. *(Ref 18-2522 RS Neb)*

§1-911 INITIATIVE AND REFERENDUM; INITIATIVE:

A. The power of initiative allows citizens the right to enact measures affecting the governance of the Municipality. An initiative proposal shall not have as its primary or sole purpose the re peel or modification of existing law except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

B. An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to section 1-912.

C. Whenever an initiative petition bearing signatures equal in number to at least 15 percent of the qualified electors of the Municipality has been filed with the Clerk and verified, it shall be the duty of the Governing Body to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the Governing Body fails to pass the measure without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the Municipality. If the Governing Body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the Municipality, the Governing Body, shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

D. Whenever an initiative petition bearing signatures equal in number to at least 20 percent of the qualified electors which requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the Clerk and verified pursuant to section 1-906, it shall be the duty of the Governing Body to consider passage of the measure contained in the petition including an override of any veto, if necessary. If the Governing Body fails to pass the measure, without amendment, including an override of any veto, if necessary, within 30 days from the date it received notification, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. The date of such election shall not be less than 30 nor more than 60 days from the date the Governing Body received notification pursuant to section 1-906.

E. If a majority of voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the Municipality 30 days after certification of the election results, unless the Governing Body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the Governing Body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors. (*Ref 18-2523 through 18-2526 RS Neb*)

§1-912 INITIATIVE AND REFERENDUM; REFERENDUM LIMITATIONS:

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

(B) The following measures shall not be subject to referendum or limited referendum:

(1) Measures necessary to carry out contractual obligations including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(2) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(3) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(4) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the Governing Body and approved by the Mayor;

(5) Measures relating to projects for which notice has been given as provided for in subsection (E) of this section for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(6) Resolutions directing the Municipal Clerk to cause measures to be submitted to a vote of the people at a special election as provided in subsection (C) of section 1-911 of this code (Initiative and Referendum; Initiative) and subsection (A) of section 1-913 of this code (Initiative and Referendum; Referendum, Passage);

(7) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in subsection (E) of section 1-911 of this code (Initiative and Referendum; Initiative); and

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

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

(10) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel. (*Ref 18-2528(1) RS Neb*)

(C) The following measures shall be subject to limited referendum:

(1) Measures in furtherance of a policy of the Municipality or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(2) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs of public ways, public property, utility systems, and other capital projects, and measures giving initial approval for industrial development projects;

(3) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal employees other than the members of the Governing Body and the Mayor; and

(4) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by the Municipality except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness. (*Ref 18-2528(2) RS Neb*)

(D) Measures subject to limited referendum shall ordinarily take effect 30 days after their passage by the Governing Body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 1-906 of this code (Initiative and Referendum; Petitions; Notification; Verification) within 30 days after such measure's passage by the Governing Body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (E) (3) of this section. If the necessary number of signatures as provided in section 1-911 of this code (Initiative and Referendum; Initiative) has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters. (*Ref 18-2528(3) RS Neb*)

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

(1) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the Governing Body's jurisdiction;

(2) By passage of a measure approving the project, including an override of a veto, if necessary, at a meeting held on any date subsequent to the date of hearing; and

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

(a) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or

resolution is subject to limited referendum for a period of 30 days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum; and

(b) For projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such 30-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by this subdivision shall be published in at least one newspaper of general circulation within the Municipality and shall be published not later than 15 days after passage by the Governing Body, including an override of a veto, if necessary, of a measure approving the project.

The right of the Municipality to hold such a hearing prior to the passage of the measure by the Governing Body and give such notice after passage of such measure by the Governing Body to obtain exemption for any particular project in a manner described in this subsection is optional, and the Municipality shall not be required to hold such a hearing or give such notice for any particular project. *(Ref 18-2528(4) RS Neb)*

(F) All measures, except as provided in subsections (B), (C), and (E) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the Governing Body, including an override of a veto, if necessary, or enacted by the voters by initiative. *(Ref 18-2528(5) RS Neb) (Amended by Ords 598, 7/12/93; 764, 9/24/01)*

§1-913 INITIATIVE AND REFERENDUM; REFERENDUM, PASSAGE:

(A) Whenever a referendum petition bearing signatures equal in number to at least 15 percent of the qualified electors of the Municipality has been filed with the Clerk and verified pursuant to section 1-906, it shall be the duty of the Governing Body to reconsider the measure or portion of such measure which is the object of the referendum. If the Governing Body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within 30 days from the date the Governing Body receives notification pursuant to section 1-906, the Clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the Municipality. If the Governing Body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the Municipality, the Governing Body shall, by resolution, direct the Clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

(B) Whenever a referendum petition bearing signatures equal in number to at least 20 percent of the qualified voters of the Municipality which requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the Clerk and verified, it shall be the duty of the Governing Body to reconsider the measure or portion of such measure which is the object of the referendum. If the Governing Body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the Clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within 30 days from the date the Governing Body received notification. The date of such

special election shall not be less than 30 nor more than 60 days from the date the Governing Body received notification.

(C) If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the Governing Body. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect. *(Ref 18-2529 through 18-2531 RS Neb)*

§1-914 INITIATIVE AND REFERENDUM; VIOLATIONS, PENALTIES:

(A) Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under sections 18-2501 through 18-2531 RS Neb shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

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

(C) Whoever signs any petition under sections 18-2501 through 18-2531 RS Neb knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of \$300.00 on the fine.

(D) Any clerk who willfully refuses to comply with the provisions of sections 18-2501 through 18-2531 RS Neb or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class I misdemeanor but imprisonment shall not be included as part of the punishment. *(Ref 18-2532 through 18-2535 RS Neb)*

§1-915 INITIATIVE AND REFERENDUM; APPLICABILITY:

The provisions of the statutes of the State of Nebraska relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recounts of votes, so far as applicable, shall apply to voting on ordinances by the electors pursuant to this Article.

Nothing in this Article shall apply to procedures for initiatives or referendums provided in Nebraska Revised Statutes sections 18-412 and 18-412.02 relating to Municipal light and power plants, sections 70-504, 70-650.01 and 70-650.02, relating to public power districts, and sections 80-203 to 80-205 relating to soldiers and sailors monuments. *(Ref 18-2536, 18-2537 RS Neb)*

Article 10. Intergovernmental Risk Management

§1-1001 INTERGOVERNMENTAL RISK MANAGEMENT; AUTHORITY:

The Governing Body and any one or more public agencies, as defined in section 44-4303 RS Neb, may make and execute an agreement providing for joint and cooperative action in accordance with sections 44-4301 through 44-4339 RS Neb, to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

1. General liability;
2. Damage, destruction, or loss of real or personal property, including but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
3. Errors and omissions liability; and
4. Workers' compensation liability.

(Ref 44-4301 through 44-4339 RS Neb) (Ord 531, 10/26/87)

Article 11. Fiscal Management

§1-1101 FISCAL MANAGEMENT; PROPOSED BUDGET STATEMENT; CONTENTS; FILING; AVAILABILITY; CORRECTION:

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

(a) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

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

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

1. For the purpose of paying the principal or interest on bonds issued by the Governing Body and
2. For all other purposes;

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

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

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

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

(4) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. *(Ref 13-505 RS Neb) (Ord 607, 5/23/94) (Amending Ords 695, 11/24/97; 715, 10/26/98; 763, 9/24/01; 793, 11/24/03)*

§1-1102 FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX:

(A)(1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the Governing Body shall file with and certify to the levying board on or before September 20 of each year or September 20 of the final year of a biennial period and file with the Auditor of Public Accounts, a copy of the adopted budget statement which complies with Neb RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately

(a) The amount to be levied for the payment of principal or interest on bonds issued by the Body and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) If the prime rate published by the Federal Reserve Board is 10% or more at the time of the and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period filing and certification required under this subsection, the governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period which is still pending. Except for such allowances, the governing body shall not certify an amount of tax more than 1% greater or lesser than the amount determined under municipal ordinance.

(3) The Governing Body shall use the certified taxable values as provided by the County Assessor pursuant to Neb RS 13-509 for the current year in setting or certifying the levy. The Governing Body may designate one of its members to perform any duty or responsibility required of the governing body by this section. *(Neb RS.13-508) (Amended by Ord 914, 3/24/2014 & Ord 954, 3/12/2018)*

§1-1103 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT:

(A) The (City Council/Board of Trustees) shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published 4 calendar days prior to the date set for hearing in a newspaper of general circulation within the (city's/village's) jurisdiction. For purposes of such notice, the 4 calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the (City Council's/Board of Trustees's) principal headquarters. At such hearing, the governing body shall make at least 3 copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body at the hearing and shall be given a reasonable amount of time to do so.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the (City Council/Board of Trustees) and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.

(D) Upon approval by (City Council/Board of Trustees), the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the (Council/Board) of such errors. The (Council/Board) shall correct any such error as provided in § 35.34. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the (Council/Board). (*Neb. RS 13-506*)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (*Ref 13-507 RS Neb*) (*Amending Ords 913, 3/24/2014; & 948, 3/12/2018; 1003, 8/9/2021*)

§1-1104 FISCAL MANAGEMENT; APPROPRIATIONS:

The Governing Body shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (*Ref 17-706 RS Neb*) (*Amended by Ords 610, 5/23/94; 661, 2/26/96*)

§1-1105 FISCAL MANAGEMENT; DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY:

(1) The Municipality may contract to retain a collection agency licensed pursuant to sections 45-601 to 45-622 RS Neb, within or without this state, for the purpose of collecting public debts owed by any person to the Municipality.

(2) No debt owed pursuant to subsection (1) of this section may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last-known address of the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid and (b) at least thirty (30) days have elapsed from the time the notice was sent.

(3) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

(4) For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be twenty-five dollars (\$25.00) or four and one-half percent (4½%) of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service. (*Ref 45-623 RS Neb*) (*Ord 611, 5/23/94*)

§1-1106 FISCAL MANAGEMENT; PUBLIC FUNDS DEFINED:

Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (*Ref 13-503 RS Neb*) (*Ord 646, 4/24/95*)

§1-1107 FISCAL MANAGEMENT; EXPENDITURES PRIOR TO ADOPTION OF BUDGET:

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

(2) The restriction on expenditures in subsection (1) of this section may be exceeded upon the express finding of the Governing Body that expenditures beyond the amount authorized are necessary to enable the Municipality to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the Governing Body in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted,

and nothing in this section shall be construed to authorize expenditures by the Municipality in excess of that authorized by any other statutory provision. (*Ref 13-509.01, 13-509.02 RS Neb*) (*Ord 647, 4/24/95*)

§1-1108 FISCAL MANAGEMENT; FISCAL YEAR: The fiscal year of the Municipality and any public utility of the Municipality commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (*Ref 17-701 RS Neb*) (*Ord 659, 2/26/96*)

§1-1109 FISCAL MANAGEMENT; COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE:

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

(2) The Municipality shall:

- (a) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and
- (b) File a release of assessment upon final payment of each assessment with the Register of Deeds. (*Ref 18-1216 RS Neb*) (*Ord 697, 11/24/97*)

§1-1110 PROPERTY TAX REQUEST; PROCEDURE FOR SETTING:

(A) If the annual assessment of property would result in an increase in the total property taxes levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, the city property tax request for the current shall year shall no more than its property tax request in the prior year, and the city rate of levy for the current year shall be decreased accordingly when such rate is set by the county board of equalization pursuant to Neb RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (C) of this section. If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(B) If the annual assessment of property would result in no change or a decrease in the total property taxes, levied by a county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, the city property tax request for the current year shall be no more than its property tax request in the prior year, and the city's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of equalization pursuant to Neb RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount

of its property tax request after holding the public hearing required in division (C) of this section. If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (C) of this section and by passing a resolution or ordinance that complies with division (D) of this section.

(C) The resolution or ordinance required under this section shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the city at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the city's total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the notice may be posted at the City Council's principal headquarters.

(D) The hearing notice shall contain the following information:

- (1) The certified taxable valuation under Neb RS 13-509 for the prior year, the certified taxable valuation under Neb RS 13-509 for the current year, and the percentage increase of decrease in such valuations from the prior year to the current year;
- (2) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
- (3) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
- (4) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.
- (5) The percentage increase or decrease in the property tax rate from the prior year to the current year; and
- (6) The percentage increase or decrease in the total operating budget from the prior year to the current year.

(E) Any resolution or ordinance setting a city's property tax request at an amount that exceeds the city's property tax request in the prior year shall include, but not be limited to, the following information:

- (1) The name of the city;
- (2) The amount of the property tax request;
- (3) The following statements:
 - (a) The total assessed value of property differs from the last year's total assessed value by ___percent;
 - (b) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$___per \$100 of assessed value;
 - (c) The city of Pawnee City proposes to adopt a property tax request that will cause its tax rate to be \$___ per \$100 of assessed value; and
 - (d) Based on the proposed property tax request and changes in other revenue, the total operating budget of Pawnee City will exceed last year's by ___ percent; and
- (4) The record vote of the City Council in passing such resolution or ordinance.

(F) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the County Clerk on or before October 13 of the year for which the tax request is to apply.

(G) Any tax levy which is not in compliance with this section and section 77-1601 RS Neb shall

be construed as an unauthorized levy under section 77-1606 RS Neb. (77-1601.02 RS Neb) (Ord 698, 11/24/97) (Amended by Ords 720, 10/26/98; 752, 8/28/00; 976, 12/23/2019)

§1-1111 FISCAL MANAGEMENT; PROPERTY TAX; CERTIFICATION OF AMOUNT:

The Governing Body shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the Municipality which the Municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to section 77-3442 RS Neb, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in section 17-702 RS Neb. (Ref 17-702 RS Neb) (Ord 718, 10/26/98)

§1-1112 FISCAL MANAGEMENT; PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED:

(1) Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (1), except as provided in division (3). The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the city's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 RS Neb, museum pursuant to section 51-501 RS Neb, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637 RS Neb, or statue, memorial, or monument pursuant to section 80-202 RS Neb Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (1). The limitations on tax levies provided in this division (1) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (1) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 RS Neb unless approved under division (3). (Ref 77-3442 RS Neb)

(2) (a) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal levy limit provided by division (1), except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to

retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (2). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (3).

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

(c) 1. The City Council shall:

- a. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
- b. Forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

2. No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue. (*Ref 77-3443 RS Neb*)

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

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

1. By passing a resolution calling for exceeding the limits by a vote of at least Two thirds (2/3) of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or
2. Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least five percent of the registered voters residing in the city.

(c) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (1) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years.

Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than thirty (30) days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in section 32-802 RS Neb shall be no later than twenty (20) days prior to the election.

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

(e) Any excess levy authority approved under this division (3) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (3)(h), whichever is earliest.

(f) The City Council may pass no more than one resolution calling for an election pursuant to this division (3) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division (3). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in section 77-3444 RS Neb.

(g) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (1), but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax.

(h) 1. The city may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

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

- a. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds ($2/3$) of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or
- b. Upon request of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least five percent (5%) of the registered voters residing in the city.

3. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five (5) years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty (30) days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in section 32-802 RS Neb shall be no later than twenty (20) days prior to the election. The election shall be held pursuant to the Election Act. (*Ref 77-3444 RS Neb*) (*Ord 719, 10/26/98*) (*Amended by Ords 753, 8/28/00; 796, 11/24/03*)

§1-1113 FISCAL MANAGEMENT; CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS:

(1) Except as provided in section 18-412.01 RS Neb for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over thirty thousand dollars (\$30,000), shall be made unless it is first approved by the Governing Body.

(2) Except as provided in section 18-412.01 RS Neb, before the Governing Body makes any contract in excess of thirty thousand dollars (\$30,000) 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 the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the Governing Body. In advertising for bids as provided in divisions (3) and (5) of this section, the Governing Body may publish the amount of the estimate.

(3) Advertisements for bids shall be required for any contract costing over thirty thousand dollars (\$30,000) 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 the enlargement or improvement is assessed to the property; or
- (b) For the purchase of equipment used in the construction of the enlargement or general improvements.

(4) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

- (a) Thirty thousand dollars (\$30,000) or less;
- (b) Sixty thousand dollars (\$60,000) or less and the city electric utility has gross annual revenue from retail sales in excess of one million dollars (\$1,000,000);
- (c) Ninety thousand dollars (\$90,000) or less and the city electric utility has gross annual revenue from retail sales in excess of five million dollars (\$5,000,000); or
- (d) One hundred twenty thousand dollars (\$120,000) or less and the city electric utility has gross annual revenue from retail sales in excess of ten million dollars (\$10,000,000).

(5) The advertisement provided for in division (3) of this section shall be published at least seven (7) days prior to the bid closing in a legal newspaper published in or of general circulation in the Municipality, and if there is no legal newspaper published in or of general circulation in the Municipality, then in some newspaper of general circulation published in the County in which the Municipality is located, and if there is no legal newspaper of general circulation published in the County in which the Municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the County where bids are required, and if no newspaper is published in the Municipality or County, or if no newspaper has general circulation in the County, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality at least seven (7) days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or

pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 RS Neb when adopted by a three-fourths (3/4) vote of the Governing Body and entered of record.

(6) If, after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract or if the bids received by the Governing Body contain a price which exceeds the estimated cost, the Governing Body may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(7) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Governing Body or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the Municipality, the Governing Body or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. *(Ref 17-568.01 RS Neb)*

(8) Any bidding procedure may be waived by the Governing Body or Board of Public Works:

(a) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in sections 81-145 through 81-162 RS Neb; or

(b) When the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503 RS Neb; or

(c) When required to comply with any federal grant, loan, or program. *(Ref 17-568.02 RS Neb)*

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

(b) For the purpose of this division (9), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL PROPERTY includes but is not limited to supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE means the obtaining of personal property by sale, lease, or other contractual means. *(Ref 18-1756 RS Neb) (Ord 724, 10/26/98) (Amended by Ord 899, 1/23/12)*

§1-1114 FISCAL MANAGEMENT; REVISION OF BUDGET:

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

- (a) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;
- (b) The budget adopted violated sections 13-518 to 13-522 RS Neb, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 13-518 to 13-522 RS Neb; or
- (c) The Governing Body has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(2) Notice of the time and place of the hearing shall be published at least five (5) days prior to the date set for hearing in a newspaper of general circulation within the municipality. Such published notice shall set forth:

- (a) The time and place of the hearing;
- (b) The amount in dollars of additional or reduced money required and for what purpose;
- (c) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
- (d) A copy of the summary of the originally adopted budget previously published; and
- (e) A copy of the summary of the proposed revised budget.

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

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

(5) Within thirty (30) days after the adoption of the budget under section 13-506 RS Neb, a Governing Body may, or within thirty (30) days after notification of an error by the Auditor of Public Accounts, a Governing Body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent (1%) or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Governing Body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such Governing Body is located and with the Auditor of Public Accounts. The Governing Body may then issue warrants in payment for expenditures authorized by the budget. (*Ref 13-511 RS Neb*) (*Ord 754, 8/28/00*) (*Amended by Ord 795, 11/24/03*)

§1-1115 FISCAL MANAGEMENT; DEPOSIT OF FUNDS:

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

(2) (a) The City Council shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions:

1. A bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof,
2. Security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions.

(b) The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. *(Ref 17-607 RS Neb)*

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

(4) Section 77-2366 RS Neb shall apply to deposits in capital stock financial institutions. Section 77-2365.01 RS Neb shall apply to deposits in qualifying mutual financial institutions. *(Ref 17-607, 77-2362 RS Neb) (Ord 797, 11/24/03) (Amended by Ord 804, 3/8/04)*

§1-1116 FISCAL MANAGEMENT; SALES AND USE TAX:

The Mayor and City Council of Pawnee City, Nebraska impose a sales and use tax in the amount of one-half percent (.50%) in addition to the City's one and one-half percent (1.50%) sales and use tax currently in effect within the City of Pawnee City, Nebraska, upon the same transactions within the City of Pawnee City on which the State of Nebraska is authorized to impose a tax and that the City increase its budgeted restricted funds for the 2016-2017 fiscal year by \$60,000 (10.0%) over the current fiscal year's restricted funds, all subject to the following terms and conditions:

(A) The proceeds from the additional sales and use tax shall be used solely for acquiring, financing, construction, improving, equipping and maintaining public infrastructure projects (each a Municipal Project) with 100% of the receipts collected therefrom to be used for the purposes of the Interlocal Agreement between the City and Pawnee County School District 0001 (Pawnee City Public Schools) for such Municipal Projects.

(B) The City shall impose the additional sales and use tax through July 15, 2024. *(Amended by Ord 936, 11/26/2016)*

§1-1117 SINKING FUNDS; GIFTS OF MONEY OR PROPERTY:

(A) The city is hereby empowered to receive money or property by donation, bequest, gift, devise, or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by this section, as stipulated by the donor. Title to any money or property so donated shall vest in the City Council, or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds. In the event of a donation of real estate, the City Council may manage such real estate as in the case of real estate donated to the city for city library purposes under the provisions of Neb RS 51-215 and 51-216. (*Neb RS 19-1301*)

(B) The City Council, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the city for a term of not to exceed ten years, 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, original equipment, or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: City libraries; city auditoriums or community houses for social or recreational purposes; city halls, city public libraries, auditoriums, or community houses in a single building; city swimming pools; city jails, city fire stations, together with a firefighting equipment or apparatus; parks, city cemeteries; medical buildings, together with furnishings and equipment, or city hospitals. The city shall not be authorized to levy the tax or to establish the sinking fund as provided in this division if, having bonded indebtedness, such has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C). (*Neb RS 19-1302*)

(C) Before any sinking fund or funds are established or before any annual tax is levied for any such planned city improvements mentioned in division (B) by the city, the City Council shall declare its purpose by resolution to submit to the qualified electors of the city at the next general city election the proposition to provide the city with the specific city improvement planned under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding 10 years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the proposition, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper in or of general circulation in the city or, if no legal newspaper is in or of general circulation in the city, in a legal newspaper in or of general circulation in the county in which the city is located. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the city cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in

this division, the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. The election provided for under this section shall be conducted as provided under the Election Act. (*Neb RS 19-1303*)

(D) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the City Council, in the manner provided in Neb RS 17-540. Whenever investments of such sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council and the investment report shall be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the city voting at a general election favoring such change in the use of the sinking fund or sinking funds. The question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election. (*Neb RS 19-1304*)

Statutory reference:

Additional levy limitations, see Neb RS 17-702

Investment in warrants, see Neb RS 77-2337

Article 12. Penal Provision

§1-1201 VIOLATION; PENALTY:

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref 17-505, 18-1720, 18-1722 RS Neb*) (*Amended by Ord 756, 8/28/00*)