

ADMINISTRATION

§1-201

Article 2. Elected Officials

§1-203

§1-201 ELECTED OFFICIALS; QUALIFICATIONS AND PROHIBITIONS.

Elected officials shall be residents and qualified electors of the City. Except as an officer of a Public Power District, Public Power and Irrigation District, or Public Utility Company, Elected Officials shall hold no other elective office, any County office, nor any other office or employment of the Municipality. The acceptance of any County office by any elected Municipal official shall be a vacation of the Municipal office so held prior to such acceptance. Further, except as provided in Section 1-1004 of this Chapter, such elected officials shall not be interested in the profits or emoluments of any contract, job, work or service for the City. (Ref. 16-305, 16-311, 70-624.04 RS Neb.)

§1-202 ELECTED OFFICIALS; ENUMERATED.

The electors of the Municipality shall elect a Mayor at large and one (1) City Councilmembers from each ward in each Municipal election year. Councilmembers shall be electors of the Municipality and residents of the ward from which they were elected. Terms of all elected officials shall commence on the first (1st) regular meeting in December of each election year. (Ref. 16-302.01 RS Neb.)

§1-203 ELECTED OFFICIALS; MAYOR.

The Mayor shall be elected to serve a four (4) year term of office. The Mayor shall preside at all the meetings of the City Council and shall have the right to vote when his vote shall be decisive and the City Council is equally divided on any pending matter, legislation, or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. He shall have the superintending control of all the officers and affairs of the Municipality and shall take care that the State and Municipal law are complied with. he may administer oaths, and shall sign the commissions and appointments of all the officers appointed in the Municipality. The Mayor shall have the power to approve or veto any ordinance passed by the City Council, and to approve or veto any order, by-law, resolution, award of or vote to enter into any contract, or the allowance of any claim; Provided, that any ordinance, order, by-law, resolution, award, or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his veto by a vote of two-thirds

(2/3) of all the members elected to the City Council. If the Mayor neglects or refuses to sign any ordinance, order, by-law, resolution, award, or vote to enter into any contract, or the allowance of any claim, and returns the same with his objection in writing at the next regular meeting of the Council, the same shall become law without his signature. The Mayor may veto any item or items of any appropriation bill, and approve the remainder thereof. The item or items so vetoed may be passed by the Council over his veto as in other cases.

Provided further, as to any measure or item which is subject to an imposed or required time limitation for approval or disapproval by the Council, the Mayor shall exercise his/her veto at the meeting at which such measure or item is passed and approved. As to any other measure or item passed and approved by the Council, if the Mayor does not exercise his veto at the meeting at which the measure or item is passed and approved, then such veto shall be exercised within ten (10) days immediately following its passage and approval by the City Council.

After the Mayor has exercised his veto, the Council may pass such measure or item so vetoed over the Mayor's veto, if the veto is exercised during the Council Meeting at which it was passed and approved by the Council, at the same meeting or at a regular or special meeting of the Council within thirty (30) days after such veto was exercised.

The veto of the Mayor and the reasons stated therefore when exercised after the meeting during which the measure or item was passed and approved by the Council shall be filed with the City Clerk by the Mayor and the same shall be made a part of the minutes and records of the City Council at its next regular or special meeting. If the Council passes the measure or item over the Mayor's veto by vote of two-thirds (2/3) majority of all members elected to the Council, then such measure shall become law without his signature as aforesaid. If the measure or item is not passed over the Mayor's veto by vote of two-thirds (2/3) of majority of all the members elected to the City Council, then such veto shall stand and such measure or item as vetoed shall be of no force and effect.

The Mayor shall communicate to the Council such information and recommend such measures as in his opinion may tend to improve the Municipality, and may have such jurisdiction as may be vested in him by ordinance over all places within (2) two Miles of the corporate limits of the Municipality for the enforcement of health or quarantine laws and the regulation

thereof. The Mayor shall have the power after the conviction of any person to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the laws of the Municipality. In the event that there is a vacancy in the office of Mayor, or in the event the Mayor is absent or unable to fulfill the duties and obligations of his office, the President of the Council shall exercise the powers and duties of the office until the vacancy shall be filled, such disability is removed, or in the case of temporary absence, until the Mayor returns. (Ref. 16-312 thru 16-316 RS Neb.)

§1-204 CITY COUNCIL; ACTING PRESIDENT. The City Council shall elect one (1) of its own body at the first (1st) meeting in December of each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one (1) of its own body to occupy his place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the Municipality as if done by the elected Mayor. (Ref. 16-315, 16-402 RS Neb.)

§1-205 CITY COUNCIL; SELECTION AND DUTIES. The members of the City Council shall be elected and serve for a four (4) year term. One (1) Councilmember from each ward shall be elected at each election, so that terms are staggered. The City Council shall be the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. (Ref. 16-302.01 RS Neb.)

§1-206 CITY COUNCIL; ORGANIZATION. City Councilmembers of this Municipality shall take office and commence their duties on the first (1st) regular meeting date in December following their election. The newly elected Councilmembers who have qualified as prescribed by law together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been

called to order, the Municipal Clerk shall report to the City Council the names of all City Councilmembers-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the Municipality shall be represented by two (2) Councilmembers. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he/she is qualified and should any City Councilmember move from the ward from which he/she was elected, his/her office shall thereby become vacant. (Ref. 16-302.01, 16-307, 32-4,152 RS Neb.)

§1-207 ELECTED OFFICIALS; VACANCY. (1) Every elective office shall be vacant upon the happening of any of the events specified in section 32-560 RS Neb.

(2) Any vacancy in the office of Mayor shall be filled as otherwise provided in this Code. Any vacancy on the City Council resulting from causes other than expiration of the term shall be filled by appointment by the Mayor with the consent of the City Council to hold office for the remainder of the term.

(3) Except as otherwise provided in subsection (2), (5), or (6) of this section, vacancies in city elected offices shall be filled by the Mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or by posting in three (3) public places in the City the office vacated and the length of the unexpired term.

(4) The Mayor shall, within four (4) weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive

a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

(5) The Mayor and Council may, in lieu of filling a vacancy in a City elected office as provided in subsections (2) through (4) of this section, call a special city election to fill such vacancy.

(6) If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies.

(7) No official who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. (*Ref 32-560 through 32-572, 32-1308 RS Neb.*) (*Ord. No. 1412 08/18/98*)

§1-207.01 VACANCY DUE TO UNEXCUSED ABSENCES.

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

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

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

(D) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the council does not excuse one or more of the

member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the council. (Ord. 1561, 05/06/03)

§1-208 ELECTED OFFICIALS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE. (1) The Mayor and members of the Council shall hold no other elective or appointive office or employment with the City.

(2) For purposes of this section, (a) elective office means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature and (b) high elective office means a member of the Legislature, an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

(3) No candidate for member of the Legislature or an elective office described in Article IV, Section 1 or 20, or Article VII, Section 3 or 10, of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be declared a write-in candidate for more than one high elective office to be filled at the same election.

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

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

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

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

(8) Notwithstanding subsections (5) through (7) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed. (Ref 16-305, 32-109, 32-603, 32-604 RS Neb.) (Ord. 1409 08/18/98)