

CHAPTER 31: APPOINTED CITY OFFICIALS

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§ 31.01 APPOINTMENT; TERMS; REMOVAL; POWERS; DUTIES.

(A) (1) The Mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor.

(2) The terms of office for all officers, except regular police officers, appointed by the Mayor and confirmed by the Council shall be established by the City Council by ordinance. The ordinance shall provide that either:

(a) The officers hold the office to which they have been appointed until the end of the Mayor's term of office and until their successors are appointed and qualified, unless sooner removed; or

(b) The officers hold office for one year, unless sooner removed.
(Neb. RS 17-107)

(B) (1) The city may enact ordinances or bylaws to regulate and prescribe the powers and duties of officers not provided for in state law.
(Neb. RS 17-604)

(2) If the Mayor and City Council appoint any of the officials specified in this chapter or any other officials, the officials shall have the powers and duties, if any, provided in this chapter or as otherwise provided by city ordinances and state law.

§ 31.02 QUALIFICATION FOR OFFICE.

Each appointive officer who is required to give bond shall qualify by filing the required bond and oath as provided in §§ 33.25 and 33.26. Each appointive officer who is not required to give bond shall qualify by filing the required oath as provided in § 33.26.

§ 31.03 MERGER OF OFFICES.

(A) The City Council may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

(B) The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only.

(C) The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

(D) For the purpose of this section, volunteer firefighters and ambulance drivers shall not be considered officers.
(Neb. RS 17-108.02)

§ 31.04 CITY CLERK.

(A) The City Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the City Council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, Neb. RS 84-1201 et seq., the Clerk may

transfer the journal of the proceedings of the City Council to the State Archives of the Nebraska State Historical Society for permanent preservation. The Clerk shall also perform such other duties as may be required by the ordinances of the city. If the Clerk is acting as the Treasurer, he or she shall also comply with the requirements of § 31.05(A)(3).

(Neb. RS 17-605)

(B) (1) It shall be the duty of the Clerk to prepare and publish the official proceedings of the City Council within 30 days after any meeting of the Council. The publication shall be in a newspaper of general circulation in the city, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in Neb. RS 23-122.

(Neb. RS 19-1102)

(2) Publication under division (B)(1) above be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then the publication shall be made in one legal newspaper published or of general circulation within the county in which the city is located. The cost of publication shall be paid out of the general funds of the city.

(Neb. RS 19-1103)

(C) The Clerk shall dispose of or destroy city public records when the records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to the Records Management Act, Neb. RS 84-1201 et seq. This shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.

(Neb. RS 18-1701)

(D) (1) The Clerk shall permit any person to examine and copy the public records in the Clerk's custody, and may charge a fee for providing copies of a public record as provided in Neb. RS 84-712 through 84-712.09.

(2) The Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council.

(E) The Clerk shall permit no records, public papers, or other documents of the city kept and preserved in his or her office to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefor, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his

or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

(F) The Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at such officers, employees, or committees. With the seal of the city, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

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

(H) The Clerk shall keep in a book with a proper index copies of all notices required to be published or posted by the Clerk by order of the City Council or under the ordinances of the city. To each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

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

§ 31.05 CITY TREASURER.

(A) (1) The City Treasurer shall be the custodian of all money belonging to the city. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the Treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The Treasurer shall, at the end of every month, and as often as may be required, render

an account to the City Council under oath, showing the state of the Treasury at the date of such account and the balance of money in the Treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the City Council, the Mayor may use this failure as cause to remove the Treasurer from office.

(2) The Treasurer shall keep a record of all outstanding bonds against the city showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The Treasurer shall accompany the annual statement submitted pursuant to Neb. RS 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

(3) The Treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

(Neb. RS 17-606)

(B) (1) The Treasurer shall prepare and publish annually within 60 days after the close of the city fiscal year a statement of the receipts and expenditures of funds of the city for the preceding fiscal year. The statement shall also include the information required by Neb. RS 16-318(3) or 17-606(2). Not more than the legal rate provided for in Neb. RS 33-141 shall be charged and paid for such publication.

(Neb. RS 19-1101)

(2) Publication shall be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the city is located.

(Neb. RS 19-1103)

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

(Neb. RS 77-2201)

(2) The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date, and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed.

(Neb. RS 77-2202)

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

(Neb. RS 77-2209)

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

(Neb. RS. 77-2210)

(5) The cash book, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(Neb. RS 77-2212)

(D) The Treasurer shall permit any person to examine and copy the public records in the Treasurer's custody, and may charge a fee for providing copies of a public record as provided in Neb. RS 84-712 through 84-712.09.

(E) The Treasurer shall keep all money belonging to the city separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the city whenever paid by him or her by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

§ 31.06 CITY ATTORNEY.

(A) The City Attorney shall be the legal advisor of the City Council. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city, or that may be ordered by the Council. When requested, he or she shall attend meetings of the Council and give them his or her opinion upon any matters submitted to him or her, either orally or in writing, as may be required. He or she shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required, and he or she shall perform such other duties as may be imposed upon him or her by general law or ordinance. The Council shall have the right to pay the City Attorney compensation for legal services performed by him or her for it on such terms as the Council and Attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the city.

(Neb. RS 17-610)

(B) The City Attorney shall also examine, when requested to do so by the City Council, the ordinance records and advise and assist the City Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that it will be a valid and subsisting local law insofar as its passage and approval are concerned.

§ 31.07 POLICE CHIEF.

(A) The Police Chief shall direct the police work of the city and shall be responsible for the maintenance of law and order. Unless the Mayor and City Council provide otherwise, he or she shall act as Health Inspector and Building Inspector.

(B) If the city has an agreement with the County Sheriff for law enforcement purposes, the County Sheriff shall have all the powers and duties of the Police Chief and city police officers as specified in the agreement.

Cross-reference:

Police Department provisions, see §§ 32.40 through 32.43

§ 31.08 POLICE OFFICERS.

(A) (1) The Mayor, by and with the consent of the Council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the Mayor and Council may be removed, demoted, or suspended at any time by the Mayor as provided in division (A)(2) below. A police officer, including the Chief of Police, may appeal to the City Council such removal, demotion, or suspension with or without pay. After a hearing, the City Council may uphold, reverse, or modify the action.

(2) (a) The City Council shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the Chief of Police. The ordinance shall include a procedure for such removal, demotion, or suspension with or without pay of any police officer, including the Chief of Police, upon the written accusation of the Police Chief, the Mayor, or any citizen or taxpayer. The City Council shall establish by ordinance procedures for acting upon such written accusation in accordance with Neb. RS 17-107.

(b) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(3) This section does not apply to a police officer during his or her probationary period.
(Neb. RS 17-107)

(B) (1) The City Council may establish a law enforcement reserve force. Members of such force shall be appointed at the discretion of the Council. The Council may limit the size of such reserve force.

(2) (a) A member of a law enforcement reserve force appointed under this section cannot make arrests, issue citations, detain members of the public, or seize evidence without being under the direct supervision of a physically present certified law enforcement officer.

(b) A reserve officer may perform functions at the direction of the County Sheriff or Chief of Police when under the direct supervision of the County Sheriff or Chief of Police. Such functions shall not include making arrests, issuing citations, detaining members of the public, or seizing evidence.

(c) A reserve officer is not limited with respect to the amount of hours worked annually.
(Neb. RS 81-1438)

Cross-reference:

Police Department provisions, see §§ 32.40 through 32.43

Statutory reference:

Other provisions on law enforcement reserve forces, see Neb. RS 81-1439 through 81-1446

§ 31.09 FIRE CHIEF.

The Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the maintenance of fire extinguishing equipment, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes.

Cross-reference:

Fire Department provisions, see §§ 32.20 through 32.29

§ 31.10 WATER COMMISSIONER/PUBLIC WORKS COMMISSIONER.

(A) (1) As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established by the city, the Mayor shall nominate and, by and with the advice and consent of the City Council, shall appoint any competent person, who shall be known as the Water Commissioner of the city, and whose term of office shall be for one fiscal year or until his or her successor is appointed and qualified. Annually at the first regular meeting of the City Council in December, the Water Commissioner shall be appointed as provided in this section.

(2) The Water Commissioner may at any time for sufficient cause be removed by a two-thirds vote of the City Council. Any vacancy occurring in the office of Water Commissioner by death,

resignation, removal from office, or removal from the city may be filled in the manner provided in this section for the appointment of the Commissioner.

(3) The Water Commissioner shall, before he or she enters upon the discharge of his or her duties, execute a bond or provide evidence of equivalent insurance to the city in a sum to be fixed by the Mayor and Council, but not less than \$5,000, conditioned upon the faithful discharge of his or her duties, and such bond shall be signed by two or more good and sufficient sureties, to be approved by the Mayor and Council or executed by a corporate surety.

(4) The Water Commissioner, subject to the supervision of the Mayor and City Council, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply in the city.

(5) In a city where no Board of Public Works exists and the city has other public utilities than its waterworks system, the Mayor and Council shall by ordinance designate the Water Commissioner as the Public Works Commissioner, with the authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this division (A) applying to the Water Commissioner shall apply to the Public Works Commissioner.

(Neb. RS 17-541)

(B) (1) The Water Commissioner shall collect all money received by the city on account of its system of waterworks and shall faithfully account for and pay over the same to the City Treasurer, taking his or her receipt therefor in duplicate, filing one of the same with the City Clerk.

(2) He or she shall make a detailed report to the City Council at least once every six months of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery, and such improvements, repairs, and extension thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the waterworks system except upon recommendation of the Water Commissioner.

(3) The Water Commissioner shall perform such other duties as may be prescribed by ordinance.

(4) The Water Commissioner shall be paid such salary as the Council may by ordinance provide, and upon his or her written recommendation, the Mayor and Council shall employ such laborers and clerks as may to them seem necessary.

(5) Neither the Mayor nor any member of the Council shall be eligible to the office of Water Commissioner during the term for which he or she was elected.

(6) If the city owns public utilities other than the waterworks system and the Water Commissioner has been designated by ordinance as the Public Works Commissioner under the authority of division (A) above, then all provisions of this division (B) in reference to a Water Commissioner shall apply to the Public Works Commissioner.

(Neb. RS 17-543)

(C) In the event the city shall have created a Board of Public Works as provided in § 32.06, the Water Commissioner shall, subject to confirmation by Mayor and Council, be employed thereafter by the Board at such reasonable compensation as may be agreed upon at the time of such employment and shall thereafter be under the jurisdiction of the Board, any of the provisions of Neb. RS 17-501 through 17-560 to the contrary notwithstanding. Any Water Commissioner under the jurisdiction and control of the Board of Public Works may be removed by the Board, after an opportunity to be heard before the Mayor and Council if he or she shall so request, for malfeasance, misfeasance, or neglect in office.

(Neb. RS 17-804)

§ 31.11 SEWER COMMISSIONER.

(A) The Sewer Commissioner, subject to the supervision of the Mayor and City Council, shall have the general management and control of the sewer system in the city.

(B) He or she shall collect all money received by the city on account of its sewer system and shall faithfully account for and pay over the same to the City Treasurer, taking his or her receipt therefor in duplicate, filing one of the same with the City Clerk.

(C) He or she shall make a detailed report to the City Council at least once every six months of the condition of the sewer system and such improvements, repairs, and extensions thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months.

(D) He or she shall issue permits for all connections to the sewer system and inspect and supervise all repairs made to the system.

(E) The Sewer Commissioner shall perform such other duties as may be prescribed by ordinance.

§ 31.12 OVERSEER OF STREETS.

(A) The Overseer of Streets shall, subject to the order of the Mayor and Council, have general charge, direction, and control of all works on the streets, sidewalks, culverts, and bridges of the city, and shall perform such other duties as the Council may require.

(Neb. RS 17-119)

(B) It shall be his or her responsibility to see that gutters and drains in the city function properly and that they are kept in good repair.

(C) He or she shall, at the request of the City Council, make a detailed report to the Council on the condition of the streets, sidewalks, culverts, alleys, and bridges of the city and shall direct its attention to such improvements, repairs, and extensions thereof as he or she may think proper.

(D) The Overseer of Streets shall issue such permits and perform such other duties as may be prescribed by ordinance.

Statutory reference:

Incentive payments to street superintendents, see Neb. RS 39-2512

§ 31.13 CITY ENGINEER; SPECIAL ENGINEER.

(A) (1) The City Engineer shall, when requested by the Mayor or City Council, make estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light systems, waterworks, power plants, public heating systems, bridges, curbing, and gutters, the improvement of streets, and the erection and repair of buildings, and shall perform such other duties as the City Council may require.

(2) When the city has appointed a Board of Public Works and the Mayor and City Council have by ordinance so authorized, the Board may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the Board.

(Neb. RS 17-568.01)

(B) The Mayor and City Council may employ a special engineer to make, or assist in making, any estimate necessary or to perform any other duty provided for in Neb. RS 17-568.01. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the City Engineer.

(Neb. RS 17-568)

(C) The City Engineer shall make a record of the minutes of his or her surveys and of all work done for the city and, when directed by the Mayor and City Council, shall accurately make such plats, sections, profiles, and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the city and be turned over to his or her successor.

Statutory reference:

Duties related to areas to be annexed, see Neb. RS 18-3301

Duties related to sewerage systems, see Neb. RS 17-150 and 17-919

