

CHAPTER 31: MEETINGS AND ORDINANCES

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MEETINGS**§ 31.01 MEETINGS; DEFINED.**

MEETINGS, as used in this subchapter, shall mean all regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action.

(1999 Code, § 1-501)

Statutory reference:

Authority or similar provisions, see Neb. RS 84-1409(2)

§ 31.02 PUBLIC BODY; DEFINED.

(A) *PUBLIC BODY*, as used in this subchapter, shall mean:

(1) (a) The City Council;

(b) All independent boards, commissions, bureaus, committees, councils, subunits or any other bodies created by the Constitution of Nebraska, statute, ordinance or otherwise pursuant to law; and

(c) Advisory committees of the bodies listed above.

(B) *PUBLIC BODY* does not include subcommittees of the bodies unless a quorum of the public body attends a subcommittee meeting or unless the subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body.

(Neb. RS 84-1409)

(1999 Code, § 1-502)

§ 31.03 PUBLIC MEETINGS.

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

(Neb. RS 84-1408)

(B) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. The notice shall be transmitted to all members of the public body and to the public. The notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the public body during

normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the city. The public body shall have the right to modify the agenda to include items of an emergency nature only at a public meeting.

(Neb. RS 84-1411)

(1999 Code, § 1-503)

§ 31.04 CLOSED SESSIONS.

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

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if that person has not requested a public meeting.

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

(B) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) above.

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

(D) Nothing in this section shall be construed to require that any meeting be closed to the public.
(Neb. RS 84-1410)
(1999 Code, § 1-504) (Ord. 05-679, passed 3-1-2005)

§ 31.05 EMERGENCY MEETINGS.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in that meeting shall pertain only to the emergency. The emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of § 31.08 shall be complied with in conducting emergency meetings. Complete minutes of the emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.
(Neb. RS 84-1411) (1999 Code, § 1-505)

§ 31.06 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present and absent and the substance of all matters discussed.

(B) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(C) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that the city may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.
(Neb. RS 84-1413) (1999 Code, § 1-506)

§ 31.07 VOTES.

(A) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a city

which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

(B) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.
(Neb. RS 84-1413) (1999 Code, § 1-507)

§ 31.08 NOTICE TO NEWS MEDIA.

The City Clerk, in the case of the City Council, and the Secretary or other designee of each other public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.
(Neb. RS 84-1411) (1999 Code, § 1-508)

§ 31.09 PUBLIC PARTICIPATION.

(A) Subject to this subchapter and the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to § 31.04, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of division (A) above for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(C) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall the body require that the name of any member of the public be placed on the agenda prior to the meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(D) No public body shall, for the purpose of circumventing this subchapter or the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

(G) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(H) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.
(Neb. RS 84-1412) (1999 Code, § 1-509)

§ 31.10 ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the Mayor, the City Clerk and other city officials that may be required shall take their regular stations in the meeting place, and the business of the city shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the City Clerk.
(1999 Code, § 1-510)

§ 31.11 CHANGE IN OFFICE.

(A) The Mayor and City Council shall meet at the time and place of the first regular meeting in December in each election year, and the outgoing officers and the outgoing members of the Council shall present their reports. Upon the outgoing Council having completed its business, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to their successors in office all property, records, papers and moneys belonging to the same.

(B) The newly elected members of the Council and those continuing in office shall convene immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor shall call the meeting to order. The Clerk shall report to the Council the names of all Council members-elect who have qualified for their respective offices. The Council shall examine the credentials of its members and any other elective officers of the city to see that each has been duly and properly elected and to see that the oaths and bonds as are required have been given. The Clerk's report shall be spread upon the minutes of the meeting preceding the roll call.

(C) After ascertaining that all Council members and officers are duly qualified and after the Clerk has called the roll, the Council shall elect a President of the Council. The Mayor shall nominate his or her candidates for appointive offices in which the terms of incumbents are expired and call for a vote on approval of the candidates. The Mayor shall then proceed with the regular order of business.
(1999 Code, § 1-511)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-107.02(9)

§ 31.12 ORGANIZATIONAL MEETING.

It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the municipality and to perform faithfully and impartially the duties of his or her office, the oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon. (1999 Code, § 1-512)

§ 31.13 REGULAR MEETINGS; QUORUM.

(A) Regular meetings of the City Council shall be held at City Hall. Regular meetings shall be held on the first Tuesday of each month at the hour of 7:00 p.m. A majority of all the members elected to the Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

(Neb. RS 17-105)

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

(C) At the hour appointed for a meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council.

(1999 Code, § 1-513) (Ord. 01-559, passed 1-12-2001; Ord. 02-576, passed 2-5-2002)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-105

§ 31.14 SPECIAL MEETINGS.

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

(Neb. RS 17-106)

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

(1999 Code, § 1-514)

§ 31.15 VIDEOCONFERENCING.

(A) A meeting of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

(1) Reasonable advance publicized notice is given;

(2) Reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recordation by audio or visual recording devices and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;

(3) At least one copy of all documents being considered is available to the public at each site of the videoconference;

(4) At least one member of the governing body or advisory committee is present at each site of the videoconference; and

(5) No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

(B) Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(C) For the purpose of this section, the following definition applies.

VIDEOCONFERENCING. Conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

(1999 Code, § 1-515) (Ord. 00-24, passed 6-6-2000; Ord. 05-679, passed 3-1-2005)

Statutory reference:

Authority or similar provisions, see Neb. RS 84-1409, 84-1411

§ 31.16 TELECONFERENCING.

(A) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

- (1) The territory represented by the member public agencies of the entity or pool covers more than one county;
- (2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;
- (3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;
- (4) Reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recordation by audio recording devices and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;
- (5) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;
- (6) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;
- (7) The telephone conference call lasts no more than one hour; and
- (8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, e-mails, faxes or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(1999 Code, § 1-516) (Ord. 00-19, passed 6-6-2000; Ord. 01-567, passed 6-5-2001; Ord. 05-679, passed 3-1-2005)

Statutory reference:

Authority or similar provisions, see Neb. RS 84-1411

§ 31.17 PROHIBITED ACTS; EXEMPT EVENTS.

(A) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this subchapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, e-mail, fax or electronic communication shall be used for the purpose of circumventing the requirements of this subchapter or the Act.

(B) This subchapter and the Act do not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power.
(Neb. RS 84-1410) (1999 Code, § 1-517) (Ord. 05-679, passed 3-1-2005)

Statutory reference:

Authority or similar provisions, see Neb. RS 84-1410

ORDINANCES

§ 31.30 GRANT OF POWER.

In addition to its special powers, the city shall have the power to make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government and welfare of the city and its trade, commerce and manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding \$500 for any one offense, recoverable with costs.
(Neb. RS 17-505) (1999 Code, § 1-601)

Statutory reference:

Adoption of standard codes, see Neb. RS 18-132 and 19-922

Authority or similar provisions, see Neb. RS 17-505

Prosecution in county court, see Neb. RS 25-2703

§ 31.31 INTRODUCTION.

Unless the City Council provides otherwise, ordinances shall be introduced by members of the City Council in one of the following ways:

(A) With the recognition of the Mayor, a member may, in the presence and hearing of a majority of the members elected to the City Council, read aloud the substance of the proposed ordinance and file a copy with the City Clerk for future consideration; or

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk, who, in the presence and hearing of a majority of the members elected to the City Council, shall read aloud the substance of the ordinance and file it for future consideration.
(1999 Code, § 1-602)

§ 31.32 RESOLUTIONS AND MOTIONS.

Unless the City Council provides otherwise, resolutions and motions shall be introduced in one of the methods prescribed in § 31.31 for the introduction of ordinances. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the City Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

(1999 Code, § 1-603)

§ 31.33 STYLE.

The style of all city ordinances shall be: "Be it ordained by the Mayor and Council of the City of Friend, Nebraska:...."

(Neb. RS 17-613) (1999 Code, § 1-604)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-613

§ 31.34 TITLE.

No ordinance shall contain a subject which is not clearly expressed in the title.

(Neb. RS 17-614) (1999 Code, § 1-605)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-614

§ 31.35 READING; PASSAGE.

(A) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City Council vote to suspend this requirement, except that this requirement shall not be suspended for any ordinance for the annexation of territory. In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(Neb. RS 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City

Council shall be made viva voce, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

(Neb. RS 17-616)
(1999 Code, § 1-606)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-614, 17-616

§ 31.36 PUBLICATION OR POSTING.

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

(A) In some newspaper published in the city or, if no paper is published in the city, then by posting a written or printed copy in each of three public places in the city; or

(B) In book or pamphlet form.

(Neb. RS 17-613) (1999 Code, § 1-607)

Statutory reference:

Additional provisions, see Neb. RS 18-131

Authority or similar provisions, see Neb. RS 17-613

§ 31.37 CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the city from the City Clerk showing that the ordinance was passed and approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. RS 17-613) (1999 Code, § 1-608)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-613, 17-615

Passage; rules and regulations, see Neb. RS 17-615

§ 31.38 EMERGENCY ORDINANCES.

(A) Except as provided in § 31.36 and division (B) below, an ordinance for the government of the city which has been adopted by the City Council without submission to the voters of the city shall not go into effect until 15 days after the passage of the ordinance.

(Neb. RS 19-3701)

(B) In the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three of the most public places in the city. The emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council, and be entered of record on the City Clerk's minutes.

(Neb. RS 17-613)

(1999 Code, § 1-609)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-613, 19-3701

§ 31.39 AMENDMENTS AND REVISIONS.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the city and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. RS 17-614) (1999 Code, § 1-610)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-614

Modifications to zoning or building districts, see Neb. RS 19-915

Ordinances revising all the ordinances of the city, see Neb. RS 17-614

§ 31.99 PENALTY.

(A) 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 \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this code, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(1999 Code, § 1-1001) (Ord. 00-20, passed 6-6-2000)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-505, 18-1720, 18-1722

