

CHAPTER 32: ELECTED OFFICIALS

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ELECTED OFFICIALS

§ 32.01 ELECTED OFFICIALS; VACANCY.

(A) The office of member of the City Council shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561.

(B) Any vacancy on the City Council shall be filled as provided in division (C) of this section. (Neb. RS 32-568)

(C) (1) (a) Except as otherwise provided in division (C)(2) or (3) or § 32.15, vacancies in city elective offices shall be filled by the Mayor and 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 public places in the city the office vacated and the length of the unexpired term.

(b) The Mayor shall 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 regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The Council shall vote upon the nominee, and if a majority votes in favor of the 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 that meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon the nominations at such meeting 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 that person were elected.

(2) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in division (C)(1), call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of one-half or more of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies.

(Neb. RS 32-569)

(1999 Code, § 1-105) (Ord. 02-586, passed 12-4-2002)

Statutory reference:

Additional and similar provisions, see Neb. RS 32-560 through 32-572

Ineligibility of person subjected to recall, see Neb. RS 32-1308

§ 32.02 RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

(A) The Mayor and members of the Council shall hold no other elective or appointive office or employment with the city.

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

ELECTIVE OFFICE. 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.

HIGH ELECTIVE OFFICE. A member of the legislature, an elective office described in Article IV, § 1 or 20, or Article VII, § 3 or 10, of the Constitution of Nebraska, or a county, city or school district elective office.

(C) No candidate for member of the legislature or an elective office described in Article IV, § 1 or 20, or Article VII, § 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.

(D) Except as provided in division (E) or (G) below, 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.

(E) No person serving as a member of the legislature or in an elective office described in Article IV, § 1 or 20, or Article VII, § 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that 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.

(F) Whenever an incumbent serving as a member of the legislature or in an elective office described in Article IV, § 1 or 20, or Article VII, § 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.

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

(H) Notwithstanding divisions (E) through (G) above, 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.

(1999 Code, § 1-106)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-108.02, 32-109, 32-603, 32-604

§ 32.03 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.
(1999 Code, § 1-107) (Ord. 03-655, passed 11-4-2003)

Statutory reference:

Authority or similar provisions, see Neb. RS 19-3101

MAYOR

§ 32.15 CITY MAYOR; SELECTION AND DUTIES.

(A) The Mayor shall preside at all meetings of 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 City Council 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 or she shall have superintendence and control of all the officers and affairs of the city, and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with.
(Neb. RS 17-110)

(B) The Mayor shall have the power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the Mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the Mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the City Council stating that the measure is vetoed. The Mayor may issue the veto at the meeting at

which the measure passed or within seven calendar days after the meeting. If the Mayor issues the veto after the meeting, the Mayor shall notify the City Clerk of the veto in writing. The Clerk shall notify the City Council in writing of the Mayor's veto. Any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The Mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the Council over the veto as in other cases.

(Neb. RS 17-111)

(C) The Mayor shall, from time to time, communicate to the City Council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the city.

(Neb. RS 17-112)

(D) The Mayor shall have the power, when he or she deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers, and to make reports to the Council, in writing, touching any subject or matter pertaining to his or her office.

(Neb. RS 17-113)

(E) The Mayor shall have such jurisdiction as may be vested in him or her by ordinance, over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within one-half mile of the corporate limits of the city.

(Neb. RS 17-114)

(F) The Mayor shall have the power to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

(Neb. RS 17-117)

(G) The Mayor shall hold no other elective or appointive office or employment with the city.

(H) The Mayor shall sign the City Clerk's minutes of all meetings of the City Council, and he or she shall sign all resolutions that have been passed and warrants for the payment of money when ordered by the Council.

(I) The Mayor shall have such other duties as are reposed in the Mayor by the laws of the State of Nebraska or as the Council may by resolution confer upon the Mayor.

(1999 Code, § 1-101)

Statutory reference:

Restrictions on holding other office or employment, see Neb. RS 17-108.02, 32-109, 32-603, and 32-604

*CITY COUNCIL***§ 32.30 SELECTION AND DUTIES.**

(A) The City Council shall consist of not less than four nor more than 12 residents of the city who are registered voters.

(Neb. RS 17-103)

(B) All Council members shall be nominated and elected on a nonpartisan ballot unless the city provides for a partisan ballot by ordinance.

(Neb. RS 32-557)

(C) If members of the Council are not elected at large:

(1) The city shall be divided into not less than two nor more than six wards, as may be provided by ordinance of the City Council, and each ward shall contain, as nearly as practicable, an equal portion of the population;

(Neb. RS 17-102)

(2) Each ward of the city shall have at least two Council members elected in the manner provided in the Election Act. No person shall be eligible to the office of Council member who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter; and

(Neb. RS 17-104)

(3) Such wards shall be substantially equal in population as determined by the most recent federal decennial census.

(Neb. RS 32-553)

(D) The term of office shall begin on the first regular meeting of the Council in December following the statewide general election.

(Neb. RS 17-104)

(E) Members of the Council shall serve for terms of four years or until their successors are elected and qualified.

(Neb. RS 32-533)

(F) If the city operates under a city manager plan, members of the City Council shall be residents and registered voters of the city and shall hold no other employment with the city. Any Council member who ceases to possess any of the qualifications required by this section or who has been convicted of a

felony or of any public offense involving the violation of the oath of office of such member while in office shall forthwith forfeit such office.

(Neb. RS 19-613)

(1999 Code, § 1-102)

Statutory reference:

Restrictions on holding other office or employment, see Neb. RS 17-108.02, 32-109, 32-603, 32-604 Election Act, see Neb. RS 32-101

Other requirements for wards, see Neb. RS 32-552 and 32-553

Ability to elect council members at large or by ward, see Neb. RS 32-554

§ 32.31 ORGANIZATION.

(A) The term of office shall begin on the first regular meeting of the Council in December following the statewide general election.

(Neb. RS 17-104)

(B) The newly elected Council members 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 meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call.

(1999 Code, § 1-103)

§ 32.32 ACTING PRESIDENT.

(A) The City Council shall elect one of its own body who shall be styled the President of the Council and who shall preside at all meetings of the Council in the absence of the Mayor.

(B) In the absence of the President, the Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council.

(C) The President, and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the city as if done by the Mayor.

(Neb. RS 17-148) (1999 Code, § 1-104)

§ 32.99 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)