

## CHAPTER 33: APPOINTED OFFICIALS

Section

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### **APPOINTED OFFICIALS**

#### **§ 33.01 APPOINTMENT; REMOVAL.**

(A) (1) The Mayor, with the consent of the City Council, may appoint those officers as shall be required by ordinance or otherwise required by law. The 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.  
(1999 Code, § 1-201)

### § 33.02 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 offices or employments, except Mayor and Council member, with any other elective or appointive office or employment so that one or more of the offices or employments or any combination of duties of any 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 purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.  
(Neb. RS 17-108.02) (1999 Code, § 1-202)

### § 33.03 CLERK-TREASURER POSITION CREATED.

The appointive offices of Municipal Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the governing body by § 33.02.  
(1999 Code, § 1-203)

### § 33.04 MUNICIPAL 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, 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.

(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) shall 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 Neb. RS 84-1201 through 84-1220, provided the provisions of this division 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 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.  
(1999 Code, § 1-204)

### § 33.05 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.  
(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 Neb. RS 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)

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(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.  
(1999 Code, § 1-205) (Ord. 02-587, passed 12-4-2002)

**§ 33.06 MUNICIPAL 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 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 those terms as the Council and Attorney may agree, and to employ additional legal assistance and to pay for 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 in so far as its passage and approval are concerned.  
(1999 Code, § 1-208)

**§ 33.07 MUNICIPAL PHYSICIAN.**

The Municipal Physician shall be a member of the Board of Health of the municipality, and perform the duties devolving upon him or her as the medical advisor of the Board. In all injuries where a liability may be asserted against the municipality, the Municipal Physician shall immediately investigate the injuries, the extent thereof and the circumstances. He or she shall then report the results of his or her investigation with the name of the party injured, and all other persons who may have personal knowledge

of the matter. He or she shall make all physical examinations, and necessary laboratory tests incident thereto, and issue those health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon, and enter all premises, buildings or other structures in the municipality. He or she shall perform other duties as may be required of him or her by the laws of the state, and the ordinances of the municipality. When ordered to do so by the governing body he or she shall disinfect or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the governing body. The Municipal Physician shall receive as compensation for his or her services a sum as the governing body may from time to time set. He or she shall receive no compensation for his or her services as a member of the Municipal Board of Health. (1999 Code, § 1-209)

### § 33.08 MUNICIPAL ENGINEER.

(A) 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 system, waterworks, power plant, public heating system, bridges, curbing and gutters, the improvement of streets and the erection and repair of buildings and shall perform other duties as the City Council may require.

(B) 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)

(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 those 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. (1999 Code, § 1-213)

*Statutory reference:*

*Duties related to areas to be annexed, see Neb. RS 17-405*

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

### § 33.09 SPECIAL ENGINEER.

The Mayor and City Council may, when they deem it expedient, 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 the special engineer shall have the same validity and serve in all respects as though executed by the City Engineer.  
(Neb. RS 17-568) (1999 Code, § 1-214)

### § 33.10 MUNICIPAL UTILITIES SUPERINTENDENT.

(A) *Generally.* A Utilities Superintendent shall be appointed in the event that there is more than one municipal utility, and the governing body determines that it is in the best interest of the municipality to appoint one official to have the immediate control over all the municipal utilities and municipal streets. The Utilities Superintendent may be removed at any time by the Mayor by a two-thirds vote of the governing body. Any vacancy occurring in the office by death, resignation or removal may be filled in the manner hereinbefore provided for the appointment of all municipal officials. The Utilities Superintendent's duties over the following Departments shall be as stated herein.

(B) *Water Department.* He or she shall have general supervision and control over the municipal water system, and shall be primarily responsible for its economic operation and prudent management. Included in the water system shall be the water plant, the pump house, all machinery and appliances used in connection with producing and distributing water to inhabitants of the municipality. All actions, decisions and procedures of the Utilities Superintendent shall be subject to the general directives and control of the governing body. The Utilities Superintendent shall have the general control and supervisory authority over all employees of the water system which the governing body may from time to time hire to operate and maintain the system. Unless some other official is specifically designated, he or she shall collect all money received by the municipality on account of the system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer all money collected in the name of the municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his or her faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second copy shall be kept by the Superintendent. He or she shall make a detailed report to the governing body at least once every six months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery and those 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. No money shall be expended for improvements, repairs or extensions of the waterworks system except upon the recommendation of the Superintendent. The Utilities Superintendent shall provide a bond conditioned upon the faithful discharge of his or her duties which shall amount to not less than the amount set by resolution of the governing body and on file in the office of the Municipal Clerk. He or she shall perform those additional duties as may be prescribed by the governing body.

(C) *Sewer Department.* The Utilities Superintendent shall have the immediate control and supervision over all the employees and property that make up the municipal sewer system, subject to the general control and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the sewer system, and shall direct their attention to those improvements, repairs, extensions, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have other duties as the governing body may delegate to him or her. He or she shall issue permits for all connections to the municipal sewer system, and inspect and supervise all repairs made to the system.

(D) *Street Department.* The Utilities Superintendent shall, subject to the orders and directives of the governing body, have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the municipality, and shall perform those other duties as the governing body may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at the request of the governing body make a detailed report to the governing body on the condition of the streets, sidewalks, culverts, alleys and bridges of the municipality, and shall direct its attention to those improvements, repairs, extensions, additions and additional employees as he or she may believe are needed to maintain a satisfactory street system in the municipality along with an estimate of the cost thereof. He or she shall issue those permits, and assume other duties as the governing body may direct.

(E) *Electric system.* The Utilities Superintendent shall have the immediate control and supervision over all employees and property that make up the municipal electric system, subject to the general control and directives of the governing body. He or she shall at least every six months, make a detailed report to the governing body on the condition of the electrical system, and shall direct its attention to those improvements, repairs, extensions, additions and additional employees as he or she may believe are needed along with an estimate of the cost thereof. He or she shall have other duties as the governing body may delegate to him or her. He or she may be removed at any time by the Mayor.

(F) *Parks and recreational facilities.* It shall be the duty of the Utilities Superintendent to take the immediate charge of all parks and recreational facilities belonging to the municipality. All actions of the Superintendent shall be subject to the review and control of the Park Board Committee and the governing body. The Superintendent shall be responsible for making those reports and performing those other duties as the Park Board Committee or the governing body may, from time to time, designate.  
(1999 Code, § 1-215)

### § 33.99 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)

