

CHAPTER 38: FISCAL MANAGEMENT

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§ 38.01 FISCAL YEAR.

The fiscal year of the city and any public utility of the city commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Neb. RS 17-701) (1999 Code, § 1-801)

§ 38.02 EXPENDITURES PRIOR TO ADOPTION OF BUDGET.

(A) On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the city. Except as provided in division (B) of this section, these expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. These expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted. (Neb. RS 13-509.01)

(B) The restriction on expenditures in division (A) of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the city to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the city in excess of that authorized by any other statutory provision. (Neb. RS 13-509.02) (1999 Code, § 1-802)

§ 38.03 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The City Council shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to § 38.04. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: the unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: the actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: the actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial period, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued by the City Council;
and

(b) For all other purposes.

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the city as well as any funds held by the County Treasurer for the city and shall be accurately stated on the proposed budget statement.

(C) The city shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and that amount shall be

shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

(Neb. RS 13-505)

(1999 Code, § 1-803) (Ord. 01-568, passed 6-5-2001; Ord. 03-659, passed 11-4-2003)

§ 38.04 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

(A) The City Council shall each year or biennial period conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the city's jurisdiction. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the City Council's principal headquarters.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of the hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately the amount to be applied to the payment of principal or interest on bonds issued by the City Council and the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of the changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for the changes.

(D) Upon approval by City Council, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor detects such errors, he or she shall immediately notify the Council of such errors. The Council shall correct any such error as provided in § 38.29. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the Council.

(Neb. RS 13-506)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Neb. RS 13-507)

(1999 Code, § 1-804) (Ord. 03-660, passed 11-4-2003)

§ 38.05 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF TAX AMOUNT.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the City Council; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under § 38.03.

(C) The City Council shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The City Council may designate one of its members to perform any duty or responsibility required of the Council by this section.

(Neb. RS 13-508) (1999 Code, § 1-805)

§ 38.06 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BIENNIAL BUDGET. A budget by the city that provides for a biennial period to determine and carry on the city's financial and taxing affairs.

BIENNIAL PERIOD. The two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by the city in determining and carrying on its financial and taxing affairs.

PUBLIC FUNDS. All money, including non-tax money, used in the operation and functions of governing bodies. If the city has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the city from a licensed lottery operator shall be considered **PUBLIC FUNDS**, and **PUBLIC FUNDS** shall not include amounts awarded as prizes. (Neb. RS 13-503) (1999 Code, § 1-806)

§ 38.07 BUDGET PROCEDURE.

The budget instruction manual prepared by the Auditor of Public Accounts is incorporated by reference for the purpose of proper budget preparation. (1999 Code, § 1-807)

§ 38.08 APPROPRIATION BILL.

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed, "The Annual Appropriation Bill," in which the Council may appropriate those sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the city. (Neb. RS 17-706) (1999 Code, § 1-808)

§ 38.09 ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT; EXTRAORDINARY LEVIES.

(A) Notwithstanding provisions in the statutes of Nebraska and this code to the contrary, for any fiscal year the City Council may decide to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all city purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in § 38.11, the all-purpose levy shall not exceed an annual levy of \$1.05 on each \$100 upon the taxable valuation of all the taxable property in the city. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the city may be made by the city in addition to the all-purpose levy. (Neb. RS 19-1309)

(B) If the method provided in division (A) above is followed in city financing, the city shall allocate the amount so raised to the several departments of the city in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best. (Neb. RS 19-1310)

(C) If the city elects to follow the method provided in division (A) above, it shall be bound by that election during the ensuing fiscal year but may abandon the method in succeeding fiscal years. (Neb. RS 19-1311)

(D) If it is necessary to certify the amount to county officers for collection, the same shall be certified as a single amount for General Fund purposes.

(Neb. RS 19-1312)
(1999 Code, § 1-809)

§ 38.10 PROPERTY TAX; CERTIFICATION OF AMOUNT.

The City Council shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the city which the city requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. The County Clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where the city is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. The sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though those sales had been made for the delinquent county taxes exclusively.

(Neb. RS 17-702) (1999 Code, § 1-810)

§ 38.11 PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C) below. The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the city's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse or home health agency pursuant to Neb. RS 71-1637, or statue, memorial or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay that judgment, to the extent the judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C) below.

(Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and off-street parking districts established under the Off-Street Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal levy limit provided by division (A) above, except that the limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For off-street parking districts established under the Off-Street Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B)(1). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (C) below.

(2) On or before August 1, all political subdivisions subject to city levy authority under this division shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude that political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B)(2).

(3) (a) The City Council shall:

1. Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and
2. Forward a copy of that resolution to the Chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue.

(Neb. RS 77-3443)

(C) (1) The city may exceed the limits provided in division (A) above by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5% of the registered voters residing in the city.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) above and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

(5) Any excess levy authority approved under this division shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8) below, whichever is earliest.

(6) The City Council may pass no more than one resolution calling for an election pursuant to this division (C)(6) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division. The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of the tax, the County Board shall authorize a tax in excess of the limits in division (A) above, but the tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to the tax, the City Council shall not impose the tax.

(8) (a) The city may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

(b) The City Council may call for the submission of the issue to the voters:

1. By passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

2. Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5% of the registered voters residing in the city.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either the excess levy authority will be rescinded or the excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of the modification shall be stated. The modification shall not have a duration greater than five years. The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election. The election shall be held pursuant to the Election Act.

(Neb. RS 77-3444)

(1999 Code, § 1-811) (Ord. 00-22, passed 6-6-2000; Ord. 03-662, passed 11-4-2003)

§ 38.12 PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(A) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. RS 77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. That resolution or ordinance shall only be passed after a special public hearing called for the purpose is held and after notice is published in a newspaper of general circulation in the area of the city at least five days prior to the hearing.

(B) The hearing notice shall contain the following information:

(1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;

(2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and

(3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

(B) Any resolution setting a tax request under this section shall be certified and forwarded to the County Clerk on or before October 13 of the year for which the tax request is to apply.

(C) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606.
(Neb. RS 77-1601.02) (1999 Code, § 1-812) (Ord. 00-21, passed 6-6-2000)

§ 38.13 EXPENDITURES.

No municipal official shall have the power to appropriate, issue or draw any order or warrant on the Municipal Treasury for money, unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the General Fund of the municipality shall exceed in any one year the amount provided for that improvement in the adopted budget statement.
(1999 Code, § 1-813)

§ 38.14 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(A) Except as provided in Neb. RS 18-412.01 for a contract with a public power district to operate, renew, replace or add to the electric distribution, transmission or generation system of the city, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, costing over \$30,000, shall be made unless it is first approved by the City Council.

(B) Except as provided in Neb. RS 18-412.01, before the City Council makes any contract in excess of \$30,000 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of the enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the City Engineer and submitted to the City Council. In advertising for bids as provided in divisions (C) and (E) below, the City Council may publish the amount of the estimate.

(C) Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

(1) For enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets or any other work or improvement when the cost of the enlargement or improvement is assessed to the property; or

(2) For the purchase of equipment used in the construction of the enlargement or general improvements.

(D) A city electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

(1) Thirty thousand dollars or less;

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(2) Sixty thousand dollars or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000;

(3) Ninety thousand dollars or less and the city electric utility has gross annual revenue from retail sales in excess of \$5,000,000; or

(4) One hundred-twenty thousand dollars or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

(E) The advertisement provided for in division (C) above shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the city, and if there is no legal newspaper published in or of general circulation in the city, then in some newspaper of general circulation published in the county in which the city is located, and if there is no legal newspaper of general circulation published in the county in which the city is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the city or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three public places in the city at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a three-fourths vote of the City Council and entered of record.

(F) If, after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract or if the bids received by the City Council contain a price which exceeds the estimated cost, the City Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(G) If the materials are of a nature that, in the opinion of the manufacturer and with the concurrence of the City Council or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the City Council or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.
(Neb. RS 17-568.01)

(H) Any city bidding procedure may be waived by the City Council or Board of Public Works:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162;

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan or program.
(Neb. RS 17-568.02)

(I) (1) Notwithstanding any other provisions of law or a home rule charter, a city which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the Federal General Services Administration or the materiel division of the Department of Administrative Services.

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

PERSONAL PROPERTY. Includes but is not limited to supplies, materials and equipment used by or furnished to any officer, office, department, institution, board or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease or other contractual means.

(Neb. RS 18-1756)
(1999 Code, § 1-814)

Statutory reference:

Requirements for public lettings, see Neb. RS 73-101 et seq.

§ 38.15 ANNUAL AUDIT; FINANCIAL STATEMENTS.

(A) (1) For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNTANT. A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the city.

ANNUAL AUDIT REPORT. The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs or financial condition of the city and its proprietary functions for the fiscal year immediately prior to the making of the annual report.

FISCAL YEAR. The fiscal year for the city or the fiscal year established in Neb. RS 18-2804 for a proprietary function if different than the city fiscal year.
(Neb. RS 19-2902)

(2) The City Council shall cause an audit of the city's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the city for that preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the City Council. The audit shall be completed and the annual audit report made by the accountant shall be submitted within six months after the close

of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the City Council. If the city owns or operates any type of public utility or other enterprise which substantially generates its own revenue, that phase of the affairs of the city shall be audited separately from other functions of the city and the result shall appear separately in the annual audit report made by the accountant to the city and the audit shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. For the utilities operated through the Board of Public Works, the City Council may provide for an entirely separate audit, on an accrual basis, of the operations and report and by a different accountant than the one making the general audit. (Neb. RS 19-2903)

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the city. When the accrual method is selected for the annual audit report, the report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express an opinion with an explanation of the reasons why he or she cannot do so. (Neb. RS 19-2904)

(4) At least three copies of the annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the City Clerk and one copy shall be filed with the Auditor of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the City Clerk and shall at all times thereafter be open and subject to public inspection. (Neb. RS 19-2905)

(B) The City Council shall provide and file with the City Clerk, not later than August 1 of each year, financial statements showing the city's actual and budgeted figures for the most recently completed fiscal year.

(Neb. RS 13-606)

(1999 Code, § 1-815)

Statutory reference:

Other provisions on audits, Neb. RS 19-2906 through 19-2909

§ 38.16 CLAIMS.

(A) (1) All liquidated and unliquidated claims and accounts payable against the city shall:

(a) Be presented in writing;

(b) State the name and address of the claimant and the amount of the claim; and

(c) Fully and accurately identify the items or services for which payment is claimed or the time, place, nature and circumstances giving rise to the claim.

(2) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in Neb. RS 13-903, the claimant shall file the claim within 90 days of the accrual of the claim in the office of the City Clerk.

(3) The City Clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the City Council.

(4) No costs shall be recovered against the city in any action brought against it for any claim or for any claim allowed in part which has not been presented to the City Council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.
(Neb. RS 17-714)

(B) Upon the allowance of claims by the City Council, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget statement; and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn, unless there is sufficient money in the treasury at the credit of the proper fund for its payment; provided that if there exists at the time the warrant is drawn, obligated funds from the federal government or the state, or both from the federal government and the state, for the general purpose or purposes of the warrant, then the warrant may be drawn in excess of 85% of the current levy for the purpose for which it is drawn to the additional extent of 100% of the obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn.

(Neb. RS 17-715)
(1999 Code, § 1-816)

§ 38.17 WARRANTS.

(A) The Mayor and City Council shall have no power to appropriate, issue or draw any order or warrant on the City Treasurer for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which the order or warrant is issued has been allowed according to the provisions of § 38.16, and funds for the class or object out of which the claim is payable have been included in the adopted budget statement or transferred according to law.
(Neb. RS 17-708)

(B) No contract shall be hereafter made by the City Council, or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditures shall have been ordered by the City Council or not, unless an appropriation shall have been previously made concerning the expense, except as otherwise expressly provided in division (A) above.
(Neb. RS 17-709)

(C) All warrants drawn upon the City Treasurer must be signed by the Mayor and countersigned by the City Clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon the warrants so

drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn and the amount already expended of the fund.

(Neb. RS 17-711)
(1999 Code, § 1-817)

§ 38.18 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE.

(A) The city shall have authority to collect the special assessments which it levies and to perform all other necessary functions related thereto including foreclosure.

(B) The City Council of any city collecting its own special assessments shall direct that notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom those special assessments are assessed or to the lending institution or other party responsible for paying those special assessments. Failure to receive the notice shall not relieve the taxpayer from any liability to pay the special assessments and any interest or penalties accrued thereon.

(C) A city collecting its own assessments shall:

- (1) File notice of the assessments and the amount of assessment being levied for each lot or tract of land to the Register of Deeds; and
- (2) File a release of assessment upon final payment of each assessment with the Register of Deeds.

(Neb. RS 18-1216)
(1999 Code, § 1-818)

Statutory reference:

Refunding erroneously paid special assessments, see Neb. RS 17-703

§ 38.19 SPECIAL ASSESSMENT FUND.

All money received on special assessments shall be held by the City Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and this money shall be used for no other purpose whatever, unless to reimburse the city for money expended for any improvement.

(Neb. RS 17-710) (1999 Code, § 1-819)

§ 38.20 SINKING FUND.

(A) The city is hereby empowered to receive money or property by donation, bequest, gift, devise or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by the provisions of this section, as stipulated by the donor. The title to the money or property so donated shall vest in the City Council, or in its successors in office, who shall become the

owners thereof in trust to the uses of the sinking fund or funds; provided, if the donation is real estate, the City Council may manage the same as in the case of real estate donated to the city for city library purposes under the provisions of Neb. RS 51-215 and 51-216.

(Neb. RS 19-1301)

(B) The City Council, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the city for a term of not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the city, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment or repair, not including maintenance, of any one or more of the following public improvements; including acquisition of any land incident to the making thereof: city library; city auditorium or community house for social or recreational purposes; city hall; city public library, auditorium or community house in a single building; city swimming pool and appurtenances thereto; city jail; city building to house equipment or personnel of a fire department, together with firefighting equipment or apparatus; city park; city cemetery; city medical clinic building, together with furnishings and equipment; or city hospital. The city shall not be authorized to levy the tax or to establish the sinking fund as provided in this division if, having bonded indebtedness, the city has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C) below.

(Neb. RS 19-1302)

(C) Before any sinking fund or funds are established or before any annual tax is levied for any planned city improvement mentioned in division (B) above by the city, the City Council shall declare its purpose by resolution to submit to the qualified electors of the city at the next general city election the proposition to provide the city with the specific city improvement planned for consummation under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide the cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the same, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper published in the city or, if no legal newspaper is published therein, in some legal newspaper published in the county in which the city is located and of general circulation. If no legal newspaper is published in the county, the notice shall be published in some legal newspaper of general circulation in the county in which the city is located. No sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the city cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but the resolution of submission shall immediately be repealed. If the proposition shall carry at the election in the manner prescribed in this division, the City Council and its successors in office shall proceed to do all things authorized under the resolution of submission but never inconsistent with this section. Provisions of the statutes of this state relating to election of officers,

voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition under this section.

(Neb. RS 19-1303)

(D) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the City Council, in the manner provided in § 38.25. Whenever investments of the sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council, and the investment report shall be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the city voting at a general election favoring the change in the use of the sinking fund or sinking funds; provided that the question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of the election.

(Neb. RS 19-1304)

(1999 Code, § 1-820)

Statutory reference:

Additional levy limitations, see Neb. RS 17-702

Investment in warrants, see Neb. RS 77-2337

§ 38.21 DEPOSIT OF FUNDS.

(A) (1) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions or qualifying mutual financial institutions of approved and responsible standing, all money collected, received or held by him or her as City Treasurer. These deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director or other officer of the bank, capital stock financial institution or qualifying mutual financial institution is also serving as Mayor, a member of the City Council, as a member of the Board of Public Works or as any other officer of the city shall not disqualify the bank, capital stock financial institution or qualifying mutual financial institution from acting as a depository for the city funds.

(2) The City Council shall require from all banks, capital stock financial institutions or qualifying mutual financial institutions a bond in a penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, security given as provided in the Public Funds Deposit Security Act, to secure the payment of all deposits and accretions. The City Council shall approve this bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any depository so designated and approved.

(Neb. RS 17-607)

(B) The insurance afforded to depositors in banks, capital stock financial institutions or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond or bonds to the extent that the deposits are insured or guaranteed by that corporation, and for deposits so insured or guaranteed, no other surety bond or bonds or other security shall be required.

(Neb. RS 77-2362)

(C) Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. RS 17-607 and 77-2362)

(1999 Code, § 1-821) (Ord. 02-590, passed 12-4-2002; Ord. 03-664, passed 11-4-2003)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-607, 77-2362

Other provisions on deposits of public funds, see Neb. RS 77-2363 and 77-2364

Public Funds Deposit Security Act, see Neb. RS 77-2386

§ 38.22 CERTIFICATES OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

The City Treasurer may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution or qualifying mutual financial institution in the state to the extent that those certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 through 16-716 as of the time the deposit is made. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. RS 17-720) (1999 Code, § 1-822) (Ord. 02-591, passed 12-4-2002)

Statutory reference:

Authority or similar provisions, see Neb. RS 17-720, 16-714 through 16-716

§ 38.23 BOND ISSUES.

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds and retire bonds for those purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law.

(1999 Code, § 1-823)

Statutory reference:

Bonds in general, see Neb. RS 18-1801 through 18-1805

Funding and refunding bonds, see Neb. RS 10-606 through 10-612

General provisions, see Neb. RS 10-101 through 10-143

§ 38.24 MOTOR VEHICLE TAX.

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

LIMITS OF THE CITY. Includes the extraterritorial zoning jurisdiction of the city.

PERSON. Includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. Person does not include any federal, state, or local government or any political subdivision thereof.

(B) Except as otherwise provided in division (D) of this section, the governing body of the city shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the city and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this section shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(C) No motor vehicle fee shall be required under this section if:

(1) A vehicle is used or stored but temporarily in the city for a period of six months or less in a 12-month period;

(2) An individual does not have a primary residence or a person does not own a place of business within the limits of the city and does not own and operate a motor vehicle within the limits of the city; or

(3) An individual is a full-time student attending a postsecondary institution within the limits of the city and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(D) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of the city.

(E) The fee shall be paid to the County Treasurer of the county in which the city is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. These fees shall be credited by the County Treasurer to the road fund of the city.

(Neb. RS 18-1214) (1999 Code, § 1-824)

Statutory reference:

Designation of county official, see Neb. RS 23-186

Motor Vehicle Registration Act, see Neb. RS 60-301

§ 38.25 INVESTMENT OF FUNDS.

(A) When the City Treasurer holds funds of the city in excess of the amount required for maintenance or set aside for betterments and improvements, the Mayor and City Council may, by resolution, direct and authorize the Treasurer to invest the surplus funds in the outstanding bonds or registered warrants of the city, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks or the 13 banks for cooperatives under the supervision of the Farm Credit Administration or in interest-bearing bonds or the obligations of the United States. The interest on the bonds or warrants shall be credited to the fund out of which the bonds or warrants were purchased.

(Neb. RS 17-608)

(B) All income received by the city from public utilities and from the payment and collection of water taxes, rents, rates or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed and the erection and construction of public utilities; should there be any surplus, it shall be annually created into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the General Fund as the Council may direct. The surplus remaining, if any, may, if the Council, be invested in interest-bearing bonds or obligations of the United States.

(Neb. RS 17-540)

(C) The Mayor and City Council may, by resolution, direct and authorize the Treasurer to dispose of the surplus electric light, water or gas funds, or the funds arising from the sale of electric light, water or natural gas distribution properties, by the payment of outstanding electric light, water or gas distribution bonds or water warrants then due. The excess, if any, after the payments, may be transferred to the General Fund of the city.

(Neb. RS 17-609)

(D) Any surplus funds arising out of the operation of any system of waterworks, power plant, ice plant, gas plant, sewerage, heating or lighting plant or distribution system by the Board of Public Works, or by the City Council, where any of the utilities are not being operated by a Board, may be invested, if not invested pursuant to the provisions of any other law upon the subject, in like manner and subject to the same conditions as the investment of similar funds of cities of the first class, as provided in Neb. RS 16-691.01.

(Neb. RS 17-803)

(E) (1) Whenever the city has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in the sinking fund exceeds the amount necessary to pay the principal and interest of any bonds which become due during the current year, the City Council may invest any surplus in excess of current needs or an excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the State Investment Officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The State Investment Officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Nothing in division (E)(1) above shall be construed to authorize investments in venture capital.

(Neb. RS 77-2341)
(1999 Code, § 1-825)

§ 38.26 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY.

(A) The city may contract to retain a collection agency licensed pursuant to Neb. RS 45-601 through 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the city.

(B) No debt owed pursuant to division (A) above may be assigned to a collection agency unless:

(1) There has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last known address of the debtor:

(a) Of the existence of the debt; and

(b) That the debt may be assigned to a collection agency for collection if the debt is not paid.

(2) At least 30 days have elapsed from the time the notice was sent.

(C) A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

(D) For purposes of this section, *DEBT* shall include all delinquent fees or payments except delinquent property taxes on real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25 or 4.5% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.
(Neb. RS 45-623) (1999 Code, § 1-826)

§ 38.27 PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION.

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

PROPRIETARY FUNCTION. A water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission or distribution utility, a gas supply, transmission

or distribution utility, an integrated solid waste management collection, disposal or handling utility, or a hospital or a nursing home owned by the city.

(Neb. RS 18-2803)

SUBSIDIZATION. The costs of operation of a proprietary function are regularly financed by appropriations from the city's General Fund in excess of the amount paid by the city to the proprietary function for actual service or services received.

(Neb. RS 18-2804)

(B) The City Council may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the city's General Fund shall have the same fiscal year as the city.

(C) (1) At least 30 days prior to the start of the fiscal year of each proprietary function, a proposed proprietary budget statement shall be prepared in writing and filed with the City Clerk containing the following information:

(a) For the immediately preceding fiscal year, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

(2) The statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(3) Each proprietary budget statement shall be filed on forms prescribed and furnished by the Auditor of Public Accounts following consultation with representatives of the governing bodies as operate proprietary functions subject to the provisions of the Municipal Proprietary Function Act.

(Neb. RS 18-2805)

(D) (1) After a proposed proprietary budget statement is filed with the City Clerk, the City Council shall conduct a public hearing on the statement. Notice of the time and place of the hearing, a summary

of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the City Clerk during normal business hours shall be published one time at least five days prior to the hearing in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction.

(2) After the hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of the hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the City Clerk within 20 days after its adoption and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction.
(Neb. RS 18-2806)

(E) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the City Council shall adopt a proprietary function reconciliation statement within 90 days after the end of the fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for that fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the City Clerk and published in a newspaper of general circulation within the City Council's jurisdiction or by mailing to each resident within the City Council's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for that fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.
(Neb. RS 18-2807)

(F) If the budget of a proprietary function is included in the city budget statement created pursuant to the Nebraska Budget Act, the Municipal Proprietary Function Act need not be followed for that proprietary function. Any income from a proprietary function which is transferred to the General Fund of the city shall be shown as a source of revenue in the city budget statement created pursuant to the Nebraska Budget Act.
(Neb. RS 18-2808)
(1999 Code, § 1-827)

§ 38.28 CREDIT CARDS AND ELECTRONIC FUNDS TRANSFERS; AUTHORITY TO ACCEPT.

(A) If authorized by the City Council, any city official may accept credit cards, charge cards or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.

(B) The total amount of the taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card or electronic funds transfer shall be collected by the city official.

(C) With respect to a facility which it operates in a proprietary capacity, the City Council may choose to accept credit cards, charge cards or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

(D) The city official shall obtain, for each transaction, authorization for use of any credit card, charge card or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing that service.

(E) The types of credit cards, charge cards or debit cards accepted and the payment services provided shall be determined by the State Treasurer and the Director of Administrative Services with the advice of a committee convened by the State Treasurer and the director. The committee shall consist of the State Treasurer, the Tax Commissioner, the director and representatives from counties, cities and other political subdivisions as may be appropriate. The committee shall develop recommendations for the contracting of the services. The State Treasurer and the director shall contract with one or more credit card, charge card or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities and political subdivisions that choose to participate in the state contract for the services. The State Treasurer and the director shall consider, for purposes of this section, any negotiated discount, processing or transaction fee imposed by a credit card, charge card or debit card company or third-party merchant bank as an administrative expense. If the City Council chooses not to participate in the state contract, it may choose types of credit cards, charge cards and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card or debit card companies or third-party merchant banks for the provision of these services.

(F) Subject to the direction of the City Council, a city official authorizing acceptance of credit card or charge card payments shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the city, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under division (E) above. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the city by credit card or charge card and a surcharge or convenience fee is imposed, the payment of the surcharge or convenience fee shall be deemed voluntary by that person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card or electronic funds transfer as part of a system for providing or retrieving information electronically, the city official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

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

ELECTRONIC FUNDS TRANSFER. The movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(Neb. RS 13-609) (1999 Code, § 1-828) (Ord. 03-663, passed 11-4-2003)

§ 38.29 REVISION OF BUDGET.

(A) (1) Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on that proposal whenever during the current fiscal year it becomes apparent to the City Council that:

(a) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(b) The budget adopted violated Neb. RS 13-518 through 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 through 13-522; or

(c) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.

(2) The public hearing requirement shall not apply to emergency expenditures pursuant to Neb. RS 81-829.51.

(B) Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the Council's jurisdiction. This published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

(C) At the hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings..

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the Council shall file with the County Clerk of the county or counties in which the City Council is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under § 35.29, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the Council shall correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk of the county or counties in which the City Council is located and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. RS 13-511) (1999 Code, § 1-829) (Ord. 00-17, passed 6-6-2000; Ord. 02-592, passed 12-4-2002; Ord. 03-661, passed 11-4-2003)

§ 38.30 SALES AND USE TAX.

(A) The qualified electors of the city, at the general election held on November 5, 2002 did approve the imposition of a 1% city sales and use tax for the purpose of providing funding for the operation and maintenance of the city's Park/Pool Department.

(B) The city does hereby impose a 1% sales and use tax upon the same transactions within the municipality on which the state is authorized to impose a tax.

(C) The tax so collected shall be utilized for the purpose of providing funding for the operation and maintenance of the city's Park/Pool Department.

(1999 Code, § 1-830) (Ord. 02-610, passed 12-4-2002)

§ 38.99 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.

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(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)