

PREAMBLE

We, the people of the City of Lincoln, under the authority of the Constitution of the State of Nebraska, do ordain and establish the following Charter for the City of Lincoln:

ARTICLE I

PRIOR CORPORATE ENTITY PRESERVED

Sec. 1. Name. The municipal corporation now existing and known as the City of Lincoln shall remain and continue a body politic and corporate, by name the CITY OF LINCOLN, and as such shall have perpetual succession. All processes affecting the city shall be served on the mayor or acting mayor or, in the absence of both of said officers, on the city clerk.

Sec. 2. Boundaries. The corporate limits of the city shall be those existing when this charter becomes effective, and the council may thereafter by ordinance alter the same to the extent and in the manner provided by law, and upon conditions in such ordinance prescribed.

Sec. 3. Rights and Liabilities, Existing Ordinances and Officers. The City of Lincoln shall remain vested with and continue to have, hold and enjoy all property, rights of property, and rights of action of every nature and description now pertaining to this municipality, and is hereby declared to be the successor of the same. It shall be subject to all the liabilities that now exist against this municipality; all valid city ordinances, resolutions, order and regulations in force at the time this charter takes effect, and not in conflict with its provisions, shall remain in force until amended or repealed; and the term of elective officers in office at the time this charter goes into effect shall end upon the election and qualification of their successors in May, 1919.

Sec. 4. Form of Government. The municipal government established by this charter shall be known as the mayor-council form of government, and its essential components shall be an elected chief executive to be known as the mayor and an elected legislative body to be known as the council. (Previous Section 4 repealed, section renumbered by Amendment of May 12, 1992; previous Amendment of August 27, 1962).

ARTICLE II

GENERAL POWERS OF THE CITY

Sec. 1. General Powers of City; Exercise Thereof. The City of Lincoln shall have the right and power to exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever that it is possible for it to have at the present and in the future under the constitution of the State of Nebraska, except as prohibited by the state constitution or restricted by this charter, and to exercise any powers which may be implied thereby, incidental thereto, or appropriate to the exercise of such powers. The city shall also have the right and power to exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever that now are, or hereafter may be, granted by the laws of the State of Nebraska to all cities and villages or applicable to cities of the primary class, provided that such laws are not inconsistent with this charter.

The city shall have the right and power to make such ordinances, by-laws, rules, and regulations, except as prohibited by the state constitution or restricted by this charter, as may be necessary or expedient for maintaining the peace, good government, and welfare of the city, its trade, commerce, and manufacturing, and for preserving order, securing persons or property from violence, danger, and destruction, for protecting

public and private property, for promoting the public health, safety, convenience, comfort, morals, and general interests and welfare of the inhabitants of the city and to enforce all such ordinances by providing for the fine or imprisonment, or both the fine and imprisonment, of those convicted of violations thereof.

All powers shall be exercised in the manner prescribed in this charter, or if not prescribed herein, in such manner as shall be provided by ordinance.

Notwithstanding any other provisions of this charter, all powers may now and in the future be exercised outside the limits of the city to the extent permitted by law.

Sec. 2. Sale of City Property. The City of Lincoln shall have the right to sell, convey, exchange, or lease real or personal property owned by the city, in such manner and upon such terms and conditions as shall be deemed in the best interest of the city; provided, no real property owned by the city having a market value in excess of \$10,000.00 shall be sold, conveyed, or exchanged unless authorized by ordinance of the council.

Sec. 3. Pension and Retirement System. The council shall have the power to establish by ordinance a pension and retirement system or systems for any or all groups of officers and employees in the paid service of the city and for any or all groups of employees of any other agencies which now, or in the future, spend money appropriated or borrowed by the council or city, or over which the council or city exercises administrative control. The council may require that officers and employees covered by any such system, except elected officials, shall become members of the system as a condition of employment.

Each such pension and retirement system shall be financed on an actuarially sound basis. The city may bear all or any part of the cost of the plan, including the cost of prior service credit for officers and employees in the city service prior to the establishment of the system. In order to equalize the tax burden over a period of years, the city may levy and collect taxes in each fiscal year sufficient to meet current needs and equalize future payments. Said tax shall be in excess of and in addition to all other taxes now or hereafter authorized by the city. The portion of such appropriations allocable to each activity, project, or other budget unit shall be shown as a part of the budget appropriations for that activity, project or budget unit.

The council may provide that the city will itself trustee all, none, or part of any pension and retirement plan established pursuant to this section, that it will trustee all, none, or part of such plan with a corporate trustee in Nebraska, or that it will purchase all, none or part of such plan from a life insurance company licensed to do business in the State of Nebraska.

Coordination or supplementation of the city system or systems with the old age and survivors insurance provisions of the Federal Social Security Act may be provided. Provisions for vesting may also be included.

Ordinances establishing pension and retirement systems shall prescribe the terms and conditions under which assets and reserves may be invested.

Sec. 4. Code of Ethics. The council shall adopt and promulgate a code of ethics for employees, elected officials, and members of boards and commissions, and provide penalties for the violation of said code.

Sec. 5. Join Other Political Subdivisions. The city shall have the power to join with other political or governmental subdivisions, agencies, or public corporations, whether federal, state or local, or with any number or combination thereof, by contract or otherwise, as may be permitted by the laws of the State of Nebraska, in the joint ownership, operation, or performance of any property, facility, power or function, or in agreements containing provisions that one or more thereof operate or perform for the other or others.

The city shall also have the power to authorize and undertake research, formulate plans, draft and seek the enactment of legislation, and take other actions concerning improvement of the relationships between the city and other political or government subdivisions, agencies, or public corporations, whether federal, state or local, or the attainment of voluntary cooperation agreements, annexations, transfers of functions to or from the city, city-county consolidation or separation, or any other means of accomplishing changes in

governmental organization in which the City of Lincoln has an interest. The city may undertake such efforts alone or in concert with other political or governmental subdivisions, agencies or public corporations, whether federal, state or local, or with public or private research or professional organization, and it may appropriate and spend money for such purposes.

Whenever the city shall exercise the power to enter into the joint ownership, operation or performance of any property, facility, power or function, or to join in agreements containing provisions set forth above, it shall not be required that the officers performing the duties required by the exercise of said power shall be residents of the city and qualified electors therein.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary.

*Previous Article II repealed and current Article II approved by voters on May 12, 1992.

ARTICLE III

ELECTIONS AND QUALIFICATIONS OF ELECTORS AND OFFICERS

Sec. 1. City Elections. The general election in the city shall be held on the first Tuesday in May in every odd-numbered year. At all general, primary and special elections, the polls shall be kept open between the hours of 8:00 a.m. and 8:00 p.m. All elections shall be proclaimed by the mayor not less than ten (10) or more than forty (40) days prior to the date of holding such elections. Notice of elections, including elections to authorize the issuance of bonds, shall be published in the city not less than ten (10) days before the date of election. No other notice shall be required. In all other respects such elections shall be held and conducted, the vote canvassed and the result declared as provided by the general laws of the state. (Amendment of May 5, 1959).

Sec. 2. Electors. The qualifications of electors shall be the same as is required under the laws of the state, and they shall also have resided in the city three months, and in the election district ten days.

Sec. 3. Canvass Returns. Unless otherwise provided by law, the council on the first Monday after any general city election shall canvass the returns and prior to the second Monday after such election shall make out and deliver certificates of election to persons found to be elected. (Amendment of May 5, 1959).

Sec. 4. Officers' Qualifications. The elective officers of the city shall be residents thereof and qualified electors therein and citizens of the United States of America.

"The undersigned duly qualified electors of the city of Lincoln and residing at the places set opposite our respective names hereto attached do hereby request that the name of _____ be placed on the official ballot as a candidate for nomination for the office of council member at the primary election to be held in said city on the ____ day of _____, 19___. We further state that we know the said person is a citizen of the United States and a qualified elector of the city and of good moral character and well qualified in our judgment for the duties of such office."

Candidates for the office of mayor shall be nominated at large at the same time and by the same method as hereinbefore prescribed with respect to the nomination of candidates for the office of council member at large, and any person desiring to become a candidate for mayor shall in all respects comply with the provisions of this section, except that, in such case, the statement of candidacy shall be accompanied by a petition signed by at least three hundred qualified voters and the filing fee to be paid to the city treasurer shall be in the amount of one hundred dollars. Additionally, the foregoing forms of petition and statement shall be modified by substituting therein "mayor" for "council member."

No filing fee shall be required of any candidate meeting the requirements to file for public office in forma pauperis as provided by state law. (Amendment of May 15, 1984; effective July 15, 1984).

Sec. 2a. Council Districts. The city shall be divided into four councilman districts by ordinance passed by the city council, and the boundaries of these districts may be changed by ordinance, but they shall comprise compact and contiguous territory, and each of said districts shall be divided as nearly as practical so that they contain equal populations. (Amendment of November 7, 1978; effective January 6, 1979).

Sec. 3. Primary Ballot. The official ballot to be prepared and used at such primaries to be held in the year 1979 and every four years thereafter shall be substantially in the following form, placing the names of all candidates upon the ticket without any party designation, circle or mark whatsoever, to wit:

"Candidates for nomination for the office of mayor.

Vote for only one.

(Names of candidates)

Candidates for nomination for the office of district council member.

Vote for only one.

(Names of candidates)

"

The official ballot to be prepared and used at such primaries to be held in the year 1981 and every four years thereafter shall be substantially in the following form, placing the names of all candidates upon the ticket without any party designation, circle or mark whatsoever, to wit:

"Candidates for nomination for the office of council member at large.

Vote for only three.

(Names of candidates)

"

In all other respects, the general character of the ballot to be used shall conform to existing state statutes. In printing, the names shall not be arranged alphabetically but shall be rotated according to the following plan: The form shall be set up by the printer with names in order in which they are placed upon the sample ballot prepared by the election commissioner. In printing the ballots for the various election districts, the positions of the names shall be changed in each office division for each election district. In making the change of position, the printer shall take the line of type containing the name at the head of each

office division and place it at the bottom of that division showing up the column so that the name that was second before the change shall be first after the change. After receiving such ballot from the election judges, endorsed by them as by law provided, the voter shall mark and cast such ballot. Any voter who shall declare that he will require assistance in voting shall be aided in the manner provided by general law. (Amendment of May 1, 1979; effective June 30, 1979).

Sec. 4. General Election. The two candidates for mayor and the two candidates for district council member from each of the four districts receiving the highest number of votes at the primary to be held in the year 1995 and every four years thereafter shall be the candidates whose names shall be placed upon the official ballot for the following general city election. The six candidates for council member at large receiving the highest number of votes at the primary to be held in the year 1997 and every four years thereafter shall be the candidates whose names shall be placed upon the official ballot for the following general city election.

If, after the primary election at which candidates for the office of mayor or council member shall be nominated, a vacancy upon the ballot for the office of mayor or council member is created by the death or declination of a nominated candidate or through any cause whatsoever, such vacancy may be filled by filing petitions with the election commissioner up to sixteen days prior to the general election. The petitions must show the name and address of the candidate and the office to be filled. The petitions for mayor must bear the signatures of 1,000 qualified electors of the city. The petitions for council member, in the case of candidates for at-large council member, must bear the signatures of 500 qualified electors of the city, and in the case of candidates for district council member, must bear the signatures of 500 qualified electors from the district from which such candidate seeks election. The names of all candidates for whom sufficient petitions are filed shall be placed upon the official ballot for the general city election. (Amendment of April 4, 1995: amendment of May 11, 1982; effective July 10, 1982; amendment of November 7, 1978; effective January 6, 1979).

Sec. 5. Ballot. At the general city election at which such candidates so nominated are to be elected, the ballots shall be prepared in substantially the same general form and the names rotated as hereinbefore provided for their nomination at the primary election; and the candidate for mayor receiving the highest number of votes shall be the mayor elected; the four candidates for the office of district councilman receiving the highest number of votes shall be the councilmen elected at the election held in the year 1979 and every four years thereafter; and the three candidates for the office of councilman at large receiving the highest number of votes shall be the councilmen elected at the election held in the year 1981 and every four years thereafter. (Amendment of November 7, 1978; effective January 6, 1979).

Sec. 6. Bond of Councilman. Every councilman shall qualify and give bond to be approved by the city council, in favor of the city in the sum of two thousand dollars signed by a surety company or by two or more good and sufficient sureties, residents of the city, each of whom shall justify that he is worth at least two thousand dollars over and above his debts, liabilities and exemptions, conditioned for the faithful discharge of the duties of councilman, and conditioned further that if said councilman shall vote for an expenditure of money, or the creation of any liability in excess of the amount allowed by law, or shall vote for the transfer of any sum of money from one fund to another where such transfer is not allowed by law, such councilman and the surety or sureties signing said bond shall be liable thereon.

The mayor shall qualify and give bond to be approved by the city council, conditioned for the faithful discharge of his duties as mayor but in all other respects the same as that required of councilmen, and all of the other provisions of this section shall be applicable thereto. (Amendment of May 7, 1935).

Sec. 7. Compensation. An independent committee of citizens with expertise in business, legal, governmental, and personnel matters, appointed by the mayor, shall make a recommendation as to the appropriate salary of the city council members, including benefits. Such recommendation may be approved as part of the annual budget resolution, provided that no increase in salary shall take effect until after the succeeding city general election. The annual salary of the mayor for each term of office shall be established by resolution of the city council adopted not later than the first day of January immediately preceding the beginning of a new mayoral term of office. Neither the mayor nor any of the council members shall be eligible to hold any other paid office or employment in the city government. (Amendment of May 11, 2004: amendment of November 8, 1994, effective May 15, 1995: amendment of May 9, 1978, effective July 9, 1978: amendment of September 9, 1974, effective November 18, 1974: amendment of May 1, 1973, effective May 14, 1973: amendment of August 27, 1962, effective May 20, 1963).

Sec. 8. Council Powers and Duties. The council shall be composed of seven members who shall be elected and known as council members. The four (4) district council members shall be elected by the people of the district in which they reside on a nonpartisan basis and the other (3) three council members shall be elected by the people on an at-large nonpartisan basis, and all council members shall serve for a term of four (4) years.

All legislative powers of the city shall be exclusively vested in the council and shall be exercised by it in the manner and subject to the limitations set forth in this charter. The council shall have the power to pass, amend, and repeal any and all ordinances and other enactments necessary or proper to execute or carry into effect any of the provisions of this charter or any of the powers herein granted, except as otherwise provided in this charter.

The council shall have the power to conduct investigations concerning any subject upon which it may legislate or the operations of any department, board, or commission engaged in the administration of city affairs. For the purposes of conducting such investigations it may employ counsel, accountants, engineers, other experts and employees. In conducting such investigations, the council shall have the power to administer oaths, subpoena witnesses, and compel the production of any books and records pertinent to such investigation. Any person who shall fail to appear in response to subpoena or shall refuse to answer any question or produce any books and records pertinent to such investigation, or shall knowingly give false testimony therein, shall be guilty of a misdemeanor and shall be subject to such penalties as may be fixed by ordinance, which the council is hereby authorized to pass, and to such other penalties as may be provided by law.

Prior to the end of each fiscal year, the council shall contract with a certified public accountant to make, as of the end of the fiscal year, an independent audit of all city funds and accounts in accordance with accepted auditing practices. The audit report shall be submitted to the council, and a copy shall be filed with the mayor immediately upon its receipt. Three (3) copies of the audit report shall be filed in the city clerk's office as a public record.

In addition to exercising its general legislative, investigatory, and audit powers, the council shall make or confirm appointments as provided by the charter, adopt and budget, set the tax levy, equalize taxes and assessments, and take such other actions as it deems necessary and as are consistent with this charter. (Amendment of May 1, 1979; effective June 30, 1979: prior amendment of May 10, 1966).

Sec. 9. Chairman and Vice Chairman of Council. The council shall, on the second Monday following each general election, elect by majority vote one of its members as chairman of the council and one of its members as vice chairman of the council. The chairman shall preside at all meetings of the council and he shall serve as acting mayor during any period in which the mayor is absent from the city or is unable to serve. The vice chairman shall preside at meetings of the council during any period in which the chairman is absent from the city or is unable to serve. During any period in which both the mayor and the chairman are absent from the city or are unable to serve, the vice chairman shall serve as acting mayor. The chairman of the council shall possess all of the rights, duties and responsibilities of a councilman and he shall be

entitled to vote on any matter brought before the council notwithstanding the fact that he shall be serving as chairman. (Amendment of November 3, 1970).

Sec. 11. Council Meetings. The term of the councilmen and the mayor shall commence on the second Monday following the general city election, and they shall meet in the city hall on that day to take office and to organize for the purpose of carrying out their assigned duties. Thereafter the council shall hold at least one regular meeting in each week on such days and at such times as the council may prescribe in its rules.

Special meetings of the council may be called from time to time by the mayor or any two councilmen, who shall give notice of such special meetings in such manner as the council may prescribe in its rules.

Four members of the council shall constitute a quorum for the transaction of any business, and four affirmative votes shall be required to pass any measure or to transact any business unless it is provided to the contrary in this charter. All regular and special meetings of the council shall be open to the public, and no ordinance, resolution, rule, regulation, order, or direction shall be adopted except at a meeting open to the public. (Amendment of May 5, 1959).

Sec. 12. Duties of Mayor. The executive and administrative power of the city shall be vested in and exercised by a mayor, who shall also be the ceremonial head of the city government. The mayor shall maintain an office in city hall and shall devote full time to the duties of that office. The mayor shall be elected by the people at large on an at-large, nonpartisan basis and shall serve for a term of four years.

The mayor shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the city. The mayor shall have the power and shall be required to:

(1) Exercise supervision over all departments and agencies of the city government and provide for the coordination of their activities.

(2) Enforce the provisions of this charter, city ordinances, and all applicable laws.

(3) Exercise powers granted to the mayor in this charter, ordinances and applicable laws concerning the appointment and removal of certain officers, employees, and members of boards and commissions.

(4) Submit annually to the council for its consideration a recommended operating budget and capital improvement program and budget.

(5) Exercise supervision over the making of purchases and contracts and personally make or approve all purchases and contracts in excess of twenty-five thousand dollars (\$25,000).

(6) Cause to be prepared, transmitted to the council, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch.

(7) Promote and encourage improvement of the city government, encourage the commercial and industrial growth of the city, and promote and develop the prosperity and social well-being of its people.

(8) Exercise such other powers and perform such other duties as may be prescribed by this charter, ordinances and resolutions and applicable laws.

The mayor shall be responsible for appointments of officers and employees in the executive branch, but the mayor may delegate to department and division heads the authority to make certain appointments. The mayor shall appoint with council approval the heads of all departments established in this charter, and he may remove, without council approval, the heads of such departments.

The mayor shall have the power to conduct investigations of the operations of affairs relating to the performance of any officer, employee, department or agency of the city in any manner with respect to which the mayor may have authority or responsibility. In conducting investigations the mayor shall have the power to administer oaths, to subpoena witnesses, other than council members, and to compel the production of books and papers pertinent to such investigation. Any person who shall fail to appear in response to subpoena, or shall refuse to answer any questions or produce any books or records pertinent to such investigation, or shall knowingly give false testimony therein, shall be guilty of a misdemeanor, and shall be subject to such penalties as may be fixed by ordinance, which the council is hereby authorized to pass, and

to such other penalties as may be provided by law. (Amendment of May 13, 2008: Amendment of August 27, 1962).

Sec. 13. Legislative Power and Veto of Mayor. The mayor shall have the right to attend council meetings and to appear before the council for the purpose of expressing his views on matters pending before the council. He shall have the power to present messages, reports, and other communications to the council, to propose legislation, and to call special meetings of the council.

The mayor shall have the power to veto legislation in the manner, and subject to the limitations hereinafter provided. Within forty-eight hours after the adjournment of any council meeting, the city clerk shall present to the mayor all ordinances and resolutions adopted at the meeting. The mayor, within seven days after the receipt of an ordinance or resolution, shall return it to the city clerk with his approval, or with his veto. If he approves an ordinance or resolution, he shall sign it. If he vetoes an ordinance or resolution, the mayor shall attach a written statement explaining the reason for his veto. Ordinances or resolutions vetoed by the mayor shall be considered by the council at its next regular meeting, and at that meeting the council may pass an ordinance or resolution over the mayor's veto by an affirmative vote of five of its members. The effective date of an ordinance passed over the mayor's veto shall not be less than fifteen days after the date of final passage, which shall be considered to be the date on which the council originally passed the ordinance or resolution and it shall then become law notwithstanding the objections of the mayor. The mayor shall not have the power to veto emergency ordinances or any enactments relating to emergency appropriations or emergency borrowing. (Amendment of November 3, 1970).

Sec. 14. Composition of Executive Branch. The executive branch shall comprise the office of mayor and such department as shall be established by the council. Each department so established shall have the necessary staff and director.

The primary subdivisions of departments shall be referred to as divisions for the purposes of identification in this charter. (Amendment of May 10, 1966).

Sec. 15. City Attorney; Deputy City Attorney. There is hereby created the position of city attorney, which position shall not be in the classified service, who shall be appointed by the mayor with council approval and who shall be reappointed with council approval each succeeding two years following initial appointment. He may be removed by the mayor with council approval. There shall also be a deputy city attorney and such assistants as may be necessary who shall be in the classified service. The city attorney shall serve all departments of city government, and he shall be the legal adviser of the mayor, the city council and the city officers. He shall commence, prosecute, and defend actions on behalf of the city, attend the meetings of the council and give opinions, orally or in writing, as required, upon any matter submitted to him by the mayor, the city council, or any officers of the city. He is authorized to prepare, sign and file the proper complaint when there is sufficient evidence to warrant the belief that a person is guilty and can be convicted of a violation of a city ordinance. He shall draft or review for legal correctness, ordinances, contracts, franchises, and other instruments as may be required, and shall perform such other duties as may be imposed upon him by general law or by ordinance. The duties of the deputy city attorney and of any assistant city attorney may include those duties of the city attorney, and as may be prescribed by ordinance. (Amendment of May 10, 1966).

Sec. 16. Directors to be Qualified. Each director shall meet such requirements, professional experience and otherwise, as shall qualify him for the duties of his office. (Amendment of May 10, 1966).

Sec. 17. Citizens Aid in Law Enforcement. The mayor and chief of police shall each have power to call upon any citizen to aid in the enforcement of any ordinance or suppression of any riot, and any person who shall refuse or neglect to obey such call shall forfeit and pay a fine not exceeding one hundred dollars.

Sec. 18. Pardons. The mayor shall have the power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

Sec. 19. Recall, Grounds for. The mayor may be removed from office by recall. The mayor shall forfeit such office upon any of the following grounds:

- (1) Ceasing to be a resident of the city.
- (2) Failure to take the oath of office.
- (3) Conviction of a felony or any crime involving violation of the official oath.
- (4) Being absent from regular council meetings for six consecutive months regardless of whether the absences are excused.
- (5) Accepting appointment or being elected to a public office other than an office that is incidental to the duties of the mayor.

In addition to the foregoing, the office of mayor shall become vacant upon the death or resignation of an incumbent or upon an adjudication of incompetency. The council in the event of the mayor's unwillingness or failure to resign, shall be responsible for bringing charges and taking other actions necessary to remove the mayor from office for any of the reasons designated in this section.

When a vacancy is created in the office of mayor, the council shall, within thirty days, elect, by affirmative vote of four of its members, a new mayor to serve for the unexpired term. The council may select the new mayor from among its members or from among the electors of the city having the qualifications for the office.

Any council member may be removed from office by recall. A council member shall forfeit such office upon any of the following grounds:

- (1) Ceasing to be a resident of the city, and in the case of a district council member, ceasing to be a resident of the district from which such person was elected; provided, that this subsection shall not apply in the case of cessation of residency in the district solely by virtue of redistricting.
- (2) Failure to take the oath of office.
- (3) Conviction of a felony or any crime involving violation of the official oath.
- (4) Being absent from regular council meetings for two consecutive calendar months without being excused by the council.
- (5) Being absent from regular council meetings for six consecutive months regardless of whether the absences are excused.
- (6) Accepting appointment or being elected to a public office other than an unpaid office that is incidental to the duties of council member or on which such person serves with council approval.

In addition to the foregoing, the office of council member shall become vacant upon the death or resignation of an incumbent or upon an adjudication of incompetency. The council shall be the judge of the qualifications of its members and shall be responsible for removing by resolution a council member from office for any of the reasons designated in this section.

When a vacancy is created in the office of council member, the council shall elect, by affirmative vote of four of its members, a person having the qualifications for the office of council member, to fill the vacancy until a successor has been duly elected and qualified. If the unexpired term of office continues for two years from the time of the next general city election, and if the vacancy shall occur more than twenty days prior to the next city primary election, a successor shall be elected to serve for the remainder of the unexpired term. (Amendment of May 1, 1979; effective June 30, 1979; amendment of May 5, 1959).

Sec. 19a. Purchase of Surplus Property. The city council may authorize, by ordinance, the purchasing agent to purchase surplus property from the United States of America, the State of Nebraska, or any agency or political subdivision of either, without estimate or advertising for bids. (Amendment of April 4, 1995; amendment of March 3, 1959; amendment of November 6, 1956).

Sec. 20. Filling Offices in Case of Disaster. In the event of a public disaster resulting in the death or disability of a majority of the council, the remaining members of the council shall successively appoint

a sufficient number of additional members to fill the vacancies therein which have been created. In the event of a public disaster resulting in the death or disability of all of the council, the department directors shall appoint three members of the council, after which the council members shall successively appoint a sufficient number of additional members to fill the vacancies therein which have been created. Such appointments shall to the extent practicable, possess the qualifications required for original membership on the council.

When all vacancies in the office of councilman have been filled in the manner herein specified, the council shall proceed to elect a mayor if that office is vacant. The council may select the mayor from among its members or from among the electors of the city having the qualifications for the office.

A mayor or any councilman elected or appointed under the provisions of this section shall be subject to immediate recall. (Amendment of May 5, 1959).

Sec. 21 Recall of Council Member; Procedure. Council members at large may be removed at any time from office by the qualified electors of the city, or in the case of district council members, by the qualified electors of the district from which such council member was elected. The procedure to accomplish the removal of any incumbent of such office shall be as follows: A petition in form and verified as in this article provided, signed by such electors equal in number to at least thirty percentum of the highest vote cast at the last preceding general city election, or in the case of a district council member, at least thirty percentum of the highest vote cast within such district at the last preceding general city election, demanding an election of a successor to the person sought to be removed, and naming a qualified candidate or candidates proposed for election to succeed him or her, shall be filed with the city clerk, which petition shall contain a general statement of the grounds upon which the removal is sought. Within ten days from the date of filing such petition, the city clerk shall examine it and from the voters' register, ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow such clerk extra help for that purpose, and the clerk shall attach to said petition the clerk's certificate showing the results of such examination; and if the clerk's certificate to such petition shows that it is insufficient in point of numbers signed, it may be amended within ten days from the date of such clerk's certificate by the filing of a supplemental petition signed and sworn to as in the case of the original petition; and the clerk shall, within ten days after such supplemental petition be filed, make a like examination of the supplemental petition and if the certificate shall show the supplemental petition, together with the original petition, to contain the requisite number of signatures, the clerk shall submit such original petition and supplement, together with the clerk's certificates, without delay, to the council; and the council shall order and fix, without delay, a date for holding an election, which date shall not be less than thirty nor more than sixty days from the date of the clerk's certificate to the council showing the petition sufficient. Candidates other than those mentioned in the recall petition herein provided for shall be nominated as provided in this article, except that where but one council member is to be voted upon, only the person receiving the largest number of votes of electors shall be deemed nominated and placed upon the ballot; where two council members are to be voted upon, only the two candidates receiving the largest number of votes shall be deemed nominated, and so on. Such primary shall be held upon the third Tuesday prior to the election. The council shall make, or cause to be made, publication of notice of the time of holding such election, and all arrangements for holding such election, and the method and manner of conducting the same and canvassing the vote cast thereat and declaring the results thereof shall be the same in all respects as at the general or regular city elections in any such city, except that the ballot used at such election shall conform to existing state statutes and the ticket shall be printed in the same manner as herein provided for the holding of elections at the general city election in such city and the names thereon so arranged and aid to voters restricted to the classes hereinbefore named. The successor of any officer so removed shall hold office during the unexpired term of such predecessor; and any council member sought to be removed may become a candidate to succeed himself or herself, and unless such person requests otherwise in writing, the clerk shall place his or her name on the official ballot with the other names mentioned in such petition. In any such removal election, the candidate receiving the highest number of votes shall be declared elected, and at such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of such successor, and, if the party who receives the highest number of votes should fail to qualify and give

bond, as by law provided, within ten days after receiving notice of his or her election, the office shall be deemed vacant and shall be filled by the remaining members of the council as any other vacancy is filled in such office. If the incumbent receives the highest number of votes cast at such election, such person shall continue in office. The foregoing method of removal shall be cumulative and additional to the methods otherwise provided by law for removing such officers.

The provisions of this section shall be applicable to the mayor. (Amendment of May 11, 1982; effective July 10, 1982; prior amendment of May 1, 1979; effective June 30, 1979; Amendment of August 27, 1962).

Sec. 22. Initiative. The right to enact ordinances for said city is hereby granted to the qualified electors of the city, but such grant is made upon the following conditions and in addition to the right herein granted to the council to legislate.

Whenever qualified electors of the city, equal in number to five percent of the number of registered voters of the city at the last general city election petition the council to enact a proposed ordinance, it shall be the duty of the council to either enact such ordinance without amendment within thirty days or submit the same to a vote of the people at the next election held within such city, regardless of whether or not such election be a city, county, or state election. Whenever such proposed ordinance is petitioned for by qualified electors equal in number to fifteen percent of the number of registered voters of the city at the last general city election and such petition requests that a special election be called to submit the proposed ordinance to a vote of the people in the event that the council shall fail to enact the same, it shall be the duty of the council to either enact such ordinance without amendment within thirty days or submit such ordinance to a vote of the people at a special election called by the council for that purpose. The date of such election shall be not less than fifty days nor more than seventy days after the filing of the petition for the proposed ordinance.

The initiative petition herein provided for shall contain the full text of the proposed ordinance and shall be in general form and as to signatures and verification as provided in this article, and shall be filed with the city clerk.

In the event that council shall fail to enact such proposed ordinance, the council shall submit the same to a vote of the people of the city, as herein provided. The mayor shall issue a proclamation notifying the electors of such election at least fifteen days prior to such election, and the council shall cause to be published a notice of the election and a copy of such proposed ordinance once in each of the daily newspapers of general circulation in the city, such publication to be not more than twenty nor less than five days before the submission of the proposed ordinance to the electors.

All proposed ordinances shall have a title which shall state in a general way the purpose and intent of such ordinance. The ballots used when voting upon such proposed ordinance shall contain the following: "For the ordinance" (set forth the title thereof) and "Against the ordinance" (set forth the title thereof).

If the majority of the electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and an ordinance so adopted shall not be altered or modified by the council within one year after the adoption thereof by the people. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; provided, the same measure, either in form or essential substance, shall not be submitted oftener than once in two years. (Amendment of August 27, 1962).

Sec. 23. Referendum. No ordinance passed by the council, except when otherwise required by the general laws of the state, or by other provisions of this charter, except ordinances appropriating money to pay the salary of officers and employees of the city, urgency ordinances for the immediate preservation of the public peace, health, or safety, and which contain a statement of such urgency, shall go into effect before fifteen days from the time of its final passage; and if, during said fifteen days, a referendum petition, signed and verified as provided in this article by at least four percent of the number of participating city voters at the last general gubernatorial election protesting against the passage of such ordinance, be filed with the city clerk, then such ordinance shall thereupon be suspended from going into operation; and it shall be the duty of the council to reconsider such ordinance, and if the same be not entirely repealed by such council, then the

petition by order or refusing to order an election, to withdraw his name therefrom. (Amendment of March 3, 1959).

Sec. 25. Assignment of Departmental Duties. In the event that the city is to undertake any new functions or programs, the council, after hearing the recommendation of the mayor, and after a favorable vote of the people where such vote is required by this charter, may by ordinance assign such new functions or programs to established departments, but to the extent that such assignments would not be practicable, the council may create additional departments. Any such additional department shall in all respects be subject to the provisions of this charter.

After hearing the recommendations of the mayor, the council may by ordinance assign or reassign functions and programs to the immediate office of the mayor or to any of the departments established in or pursuant to this charter. All such assignments or reassignments shall be in accord with the general intent of this charter.

The internal organization of departments shall be determined by the mayor in consultation with department heads. Divisions may be created, abolished, consolidated, or otherwise changed by executive order of the mayor.

The mayor may create advisory committees and appoint the members thereof, provided that the function of such committees is to counsel or advise the mayor or designated department heads. Such committees shall not be created for periods longer than one year, but they may be recreated by the mayor. Members of such committees shall serve without pay.

Temporary or permanent advisory boards and commissions may be established by the council by ordinance or resolution to counsel and advise in such fields and on such matters as the council may designate. Members of such boards and committees shall serve without pay.

Administrative boards, commissions, and authorities may be established by ordinance when such are deemed necessary by the council to administer programs and functions, but no such board, commission or authority which is to be assigned responsibility for the control or management of property, personnel, facilities, equipment or finances shall be established until such action has been approved by a majority vote of the electors. The provisions of this section requiring a vote shall apply regardless of whether the establishment of the proposed administrative board, commission, or authority is based on a permissive law of the state of Nebraska, the exercise of the city's home rule powers, or both. (Amendment of May 10, 1966).

Sec. 29. Meetings and Records Open to Public. All official records and all fiscal accounts of the mayor, the council and of every department, agency, board, commission, or of any advisory group appointed by the mayor or council, or of any agency or board or other authority established by or created pursuant to this charter, or by any ordinance, executive order, resolution or motion pursuant to this charter, or of any public agency appropriated public funds by the city, shall be open to inspection and copying by any person at all reasonable times, except for records and documents, the disclosure of which has been deemed by prior legislative action to defeat the lawful purposes which they are intended to accomplish.

A copy of all executive orders and of all remittiturs, reprieves and pardons signed by the mayor shall be filed within twenty-four hours with the city clerk, or his successor and shall be an official record of the city.

Any person who is denied inspection of or a right to copy any official record or document shall have the right to obtain a review and reversal of said denial and of the determination that the disclosure would tend to defeat the lawful purposes which said records or documents are intended to accomplish as deemed by prior legislative action by appropriate action filed in the district court of Lancaster County, Nebraska.

All meetings of the council and of boards, commissions, and advisory groups appointed by the mayor or council, and agencies, boards and other authorities established by or created pursuant to this charter, or by any ordinance, executive order, resolution or motion pursuant to this charter, or any public agency appropriated public funds of or by the city, convened for official business, shall be held in the city hall or in some other public place supported by public funds and open to the general public. All such convened meetings shall be open to the public; and minutes of such meetings shall be kept as public record on file with

the city clerk, or his successor. No official action of any such body shall be taken without a formal vote of record at a meeting so convened. Any member of any such body may call for a poll of the vote which shall be recorded by its secretary.

The time and place of such public meetings shall be communicated to the city clerk, or his successor, at least twenty-four hours before the meeting, and the city clerk, or his successor, shall maintain a public schedule and record of such meetings, but failure to comply shall not invalidate any action taken at said meeting when such failure is thereafter waived and ratified by the mayor and council. The ratification shall be effective as of the date of the action ratified. (Amendment of May 10, 1966).

ARTICLE V

ORDINANCES

Sec. 1. Passage, How Proved. Ordinances shall be passed pursuant to such rules and regulations as the council may provide and may be proved by the certificate of the clerk under seal of the city. The passage, publication or posting of ordinances shall be sufficiently proved by certificate of the clerk under seal of the city showing when passed, when and in what paper published or when, by whom and where the same was posted.

Sec. 2. Advertisement, When in Force. The style of ordinances shall be "Be it ordained by the city council of the City of Lincoln, Nebraska:" And all ordinances shall be published within fifteen days after the passage thereof, such publication to be sufficient if published in one issue of a daily or weekly newspaper of general circulation in the city, or posted as elsewhere herein provided, or in book or pamphlet form, as may be provided by ordinance, to be distributed or sold in the city. Ordinances fixing a penalty of forfeiture for the violation thereof shall not take effect until fifteen days after passage, and in no case before one week after the publication thereof in the manner above prescribed; provided, however, in case of riots, infectious or contagious diseases or other impending danger or other emergency requiring immediate operation of the ordinance, the same shall take effect immediately upon the publication thereof as above prescribed. All ordinances, except as hereinabove prescribed, shall take effect fifteen days after passage. (Amendment of November 6, 1956).

Sec. 3. How Enacted. All ordinances, resolutions, or orders for the appropriation or payment of money, shall require for passage or adoption the concurrence of a majority of the members elected to the council. Ordinances of a general or permanent nature shall be fully and distinctly read on three different days, unless the council shall dispense with this rule by a two-thirds vote of the members elected. No ordinance shall contain a subject which is not clearly expressed in its title. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed.

ARTICLE VI

UTILITIES

Sec. 1. Waterworks. When a system of waterworks shall have been adopted and the people shall have voted to borrow money to aid their construction or extension, the city council may erect, construct and maintain such system of waterworks, either within or without the corporate limits of the city, and make all needful rules and regulations concerning the use of such waterworks, and do all acts necessary for the construction, completion, and management and control of the same, not inconsistent with this charter, including the taking of private property for public use for the construction and operation of the same, compen-

sation to be ascertained and made therefor in the manner hereinbefore provided for the exercise of the power of eminent domain.

Sec. 2. Water Districts. The city council shall have power to create water districts for the purpose of supplying water for domestic, industrial or fire purposes, or for any one or more of said purposes, or for the purpose of enlarging any water mains, now existing or hereafter constructed. All such districts, to be known as "water districts," shall be created by ordinance and shall designate the property in the district to be benefitted. Upon creation of any water district, the city council shall have power to construct or cause to be constructed, either by contract with the lowest responsible bidder or directly by the city, such water main or mains, or extensions or enlargements, including all necessary appliances for fire protection, within such districts as the council shall determine, and assess the costs thereof against the property in such district, not exceeding the special benefits accruing on account thereof, in the manner provided by Section 14 of Article VIII. The city council shall have power and authority to fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improvements may be made in accordance with the provisions of Article VIII, Section 10a. (Amendment of November 5, 1996: prior Amendment of March 3, 1959).

Sec. 3. Ornamental Lighting Districts. The city council shall have power to create ornamental lighting districts for the purpose of acquiring and installing ornamental lights, including poles, fixtures, wiring, underground conduits, and all necessary equipment and accessories, in or along any street, streets, public grounds, public way or ways, within the city. All such districts shall be known as "ornamental lighting districts" and shall be created by ordinance and designate the property in the district to be benefitted. When such improvement is within a district, the outer boundaries of which are more than one-half mile distance from the block in which is situated the city hall, no such improvement shall be finally ordered by the city council until a petition signed by the owners of the record title, representing a majority of the feet frontage of the property directly abutting upon the street, streets, public grounds, public way or ways, proposed to be improved, shall be presented and filed with the city clerk petitioning therefor. Upon creation of any such ornamental lighting district and the filing of petitions as herein provided where required, the city council shall have power to advertise for bids for the installation, construction and equipment thereof, and to contract with the lowest responsible bidder therefor. The cost thereof may be, in whole or in part, assessed proportionately to the benefits on the property specially benefitted. The special assessments shall be levied and assessed as provided in Section 14 of Article VIII. The total amount of such special assessments shall be levied, one-fifth thereof to be delinquent in fifty days from the levy and one-fifth annually thereafter, each installment to draw six percent interest from the date of levy, payable annually, installments delinquent to draw interest at the rate of seven percent per annum after the delinquent date; provided, however, that the city council shall have power and authority to fix the period of time, not to exceed twenty years in which special assessments made against any property for the payment of the cost of such improvements may be made in accordance with the provisions of Article VIII, Section 10a. If one-fifth of such special assessments be delinquent in fifty days after the levy and one-fifth annually thereafter, for the amount of the special assessments the city council may, by ordinance, issue bonds known as "ornamental lighting district bonds," payable in not to exceed five years from date, with interest not exceeding six percent per annum, payable annually, and such special assessments shall be a sinking fund for payment thereof. If the city council exercises the power and authority to fix the period of time for payment of special assessments in accordance with the provisions of Article VIII, Section 10a, the city council shall have power and authority to issue bonds in accordance with the provisions of Article VIII, Section 10a. (Amendment of May 7, 1963).

ARTICLE VII

CONTRACTS AND PURCHASES

Sec. 1. Purchasing Division Created. There shall be established and maintained in the finance department a purchasing division, the head of which shall be the purchasing agent of the city. The purchasing agent, acting in accordance with provisions of this charter and rules and regulations established by ordinance, shall purchase all materials, parts, supplies, and equipment required by any department or agency of the city government.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of May 13, 2008; prior amendment of May 15, 1990) (Previously Sec. 5)

Sec. 2. Purchasing Division, Powers and Duties. The purchasing division, in making any purchase in the amount of \$25,000.00 or more, or any other department or agency, in making any contract committing the city to any expenditure of \$25,000.00 or more, shall advertise for formal sealed bids to be opened in public and to be the basis for awards. All advertisements soliciting bids shall be published at least once in the official paper of the city, if there be one, and if there be no official newspaper, then in at least one daily newspaper published and in general circulation in the city. Purchases and contracts involving the expenditure of less than \$25,000.00 may be made without calling for formal sealed bids, but at least three informal bids shall be secured and recorded if practicable.

Competitive bidding shall not be required in purchasing unique or noncompetitive articles or in contracting for professional services. The mayor, or council by the affirmative vote of six of its members, or by a unanimous vote, if fewer than six but at least four members are present, may waive the competitive bidding requirement if such waiver is necessary to meet an emergency threatening serious loss of life, health or property in the community.

The city council may by unanimous vote of the members present authorize the purchase of supplies or the expenditure of funds for the operation or maintenance of any utility operated by the city without estimate or advertising for bids, in which event supplies so authorized may be purchased in the open market. The mayor may, without formal sealed bids, authorize the construction of public works and utilities infrastructures by private entities when the city's payment of reimbursement or subsidies for such construction does not exceed \$100,000.00.

All awards shall be made to the lowest responsible bidder. The city council shall by ordinance establish those criteria to be considered in determining the lowest responsible bidder. The city shall always have the power to reject all bids and to readvertise if it wishes to do so. The mayor may delegate the execution of any purchase, contract award, or other document which has a direct financial impact to the city of less than \$25,000.00.

The city may require that successful bidders provide good and sufficient bonds of appropriate types to ensure deliveries and faithful performance in connection with the purchases or contracts involved.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of May 13, 2008; prior amendments of May 15, 1990; November 7, 1978). (Previously Sec. 6). (Editor's Note: Prior §2 of Art. VII was repealed on May 15, 1990).

Sec. 3. Contracts, Limiting Term. No contract involving the expenditure of money from appropriations of more than one year, other than appropriations of borrowed money, shall be valid unless approved by ordinance or resolution of the council, and no such contract shall be made for a period of more than four years except contracts executed pursuant to Article II, Section 5, and except as otherwise provided in this section. Contracts in connection with properties or operations of the city's proprietary functions, and leases in which the city is to be either the lessee or lessor, may be consummated for such periods and on such terms as the council may by ordinance authorize. (Amendment of November 5, 1996; prior Amendment of May 15, 1990) (Previously Sec. 10).

Sec. 4. Appropriation Preceding Contracts. No contract shall be made and no expense shall be incurred by any department, agency, officer, or employee of the city, whether the expenditure shall have been ordered by the council or not, unless an appropriation shall have been previously made concerning such expenditure, except as is herein otherwise provided. (Amendment of May 15, 1990) (Previously Sec. 4).

Sec. 5. No Officer Interested in City Contract. If any councilman, the mayor, or any employee of the city has a significant financial interest, direct or indirect or by reason of ownership of stock, in any contract or other business dealings with the city, or in any action of the city government relating to the public or private development of land, or if any member of any city board or commission has a significant financial interest, direct or indirect or by reason of ownership of stock, in any matter before the body on which he serves, he shall declare that interest and shall refrain from voting upon or otherwise participating in the making of the contract or the taking of the action, in which he has a financial interest.

Procedures for the making and filing of declarations of financial interest shall be established by ordinance.

Any officer or employee designated in this section who willfully conceals such financial interest or willfully conceals the requirements of this section shall forfeit his office or position and shall be guilty of a misdemeanor, punishable by a fine not to exceed \$100 or by imprisonment for not to exceed six months. Any violation of this section with the actual knowledge of any person or corporation contracting with the city shall render the unfulfilled portion of the contract voidable by the council.

No officer or employee of the city shall receive any pay from the city other than his salary. The council shall not appropriate or pay any money or other valuable thing to any person not an officer or employee for the performance of any act, service, or duty, the performance of which is within the proper scope of the duties of an officer or employee of the city, unless the same is specially appropriated and ordered by majority vote of the council. (Amendment of May 15, 1990) (Previously Sec. 3).

Sec. 6. City Printing, Rate. The purchasing agent shall issue an invitation to bid for the publication in a legal newspaper of general circulation in the city of all public advertisements, notices, ordinances and all other matters on account of the city, for a period of three years. In preparing the specifications for the invitation to bid and in awarding the publishing contract, consideration shall be given to rates, circulation, and general ability to provide the publishing services required by the city, and need not be awarded to the lowest bidder. Whenever deemed advisable the city council may, by resolution, order any notice or advertisement to be published in one or more papers in addition to the official newspaper. (Amendment of May 15, 1990) (Previously Sec. 4, part).

Sec. 7. Notices; Posting in Lieu of Publication. In case of the refusal or neglect of any legal newspaper to advertise public notices at rates or under conditions acceptable to the city council, or in any case where directed by the city council, in lieu of and in place of newspaper publication, such notices shall be posted on the official bulletin board of the city, which shall be maintained in a conspicuous place at the city hall on which shall be kept such notices required to be published by law under proper classified headings, to-wit: Proposals for bids on public works, meetings of boards of equalization, notices relating to franchises, and all ordinances, notices and other proceedings required by law to be published. Notwithstanding any other provisions of this charter to the contrary, such posting shall of itself be deemed as meeting all the requirements of advertisements under this charter. All such posting shall be done by the city clerk, duly witnessed on his record book by not less than two persons. Such record books shall show the date of such posting and its expiration. The record of such posting shall be evidence that the same was done as required by this section; provided, the proof of the compliance with either of the above methods shall be held sufficient proof of publication of all official notices required by this section. (Amendment of May 15, 1990) (Previously Sec. 4, part).

ARTICLE VIII

STREETS, PUBLIC IMPROVEMENTS, PUBLIC UTILITIES, SPECIAL ASSESSMENTS

Sec. 1. Streets. The city council shall have power by ordinance to create, open, widen, or otherwise improve, vacate, name and rename any street, alley, public way or ways, including the sidewalk space, provided all damages sustained by the owners of the property thereon by opening or widening shall be ascertained in the manner herein provided for the exercise of the power of eminent domain; provided, further, whenever any street, alley or public way shall be vacated the same shall revert to the owners of the adjacent real estate, one-half on each side thereof, unless the city reserves title thereto in the ordinance so vacating such street, alley or public way. In the event title is retained by the city, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed to be in the best interests of the city, as otherwise authorized in the charter. (Amendment of May 10, 1966).

Sec. 2. Viaducts. The city council shall have power, by ordinance, to provide for grading or repairing of any street or public way, construction, renewal or repair of bridges, culverts and sewers, and to defray costs thereof from the proper city fund. The city council shall have power, by ordinance, to require any company owning or operating any railroad track on or across any public way to erect, construct, reconstruct, complete, and keep in repair any viaduct on or along such public way, under or over such track including viaduct approaches, as may be declared necessary for public safety. The city council shall also have power, by ordinance, to require any company owning or operating any railroad track within the city limits which crosses any public way to elevate all or any part of said railroad track. Whenever the construction of any viaduct, including its approaches, over any street or under any track or the elevation of any railroad track, within the city limits, be by ordinance declared necessary for public safety and protection, the city council shall provide for appraising, assessing and determining the damages that may be caused to any property by the construction thereof. The proceedings shall be like those for damages to property owners by grading a street, and such damages may be paid by the city and assessed against the property benefitted. The width, height, strength, material and manner of construction of any such viaduct, including its approaches or the elevation of any such railroad tracks, shall be as required by the city council. When two or more railroad companies own or operate lines of track to be crossed by such viaduct, the proportion thereof and of the approaches thereto, to be constructed by each, shall be determined by the city council. It shall be the duty of any railroad company or companies on being required as herein provided to construct, reconstruct, erect or repair any viaduct or to elevate any railroad track to proceed with the work within the time and in the manner required by the city council, and it shall be a misdemeanor for any railroad company to fail, neglect, or refuse to perform such duty, and upon conviction, any such company shall be fined one hundred dollars, and each day such company shall fail, refuse, or neglect to perform such duty, shall be a distinct offense. In addition to such penalty, any such company or companies shall be compelled by mandamus, or by other appropriate remedy, to do such work as may be required by ordinance. The city council shall have power whenever any railroad company shall fail, neglect, or refuse to erect, construct, reconstruct, or repair any viaduct or viaducts, or to elevate any railroad track, after being required so to do as herein provided, to proceed with such work by contract or in such manner as may be provided by ordinance and assess the cost thereof against the property of the railroad company or companies required to do the same, and such cost shall be a valid lien against such property and be also a legal indebtedness against such company or companies in favor of the city and be enforced and collected by suit in the proper court. (Amendment of November 4, 1919).

Sec. 3. Streets; Grading, Curbing, Guttering. The city council shall have power to grade partially, or to an established grade, curb, recurb, gutter, construct sidewalks, or otherwise improve or repair any street or street, alley or alleys, public grounds, public way or ways, or parts thereof, including the sidewalk space, at public cost, or by levy of special benefits on the property specially benefitted thereby, proportionate to

benefits. When the streets, public ways or public grounds shall have been brought to an established grade, the council shall have power to bring sidewalks and sidewalk space therein to a grade and to construct sidewalks, and shall have power and authority to levy special assessments against the property specially benefitted, not to exceed the cost of improvement. Ordinary repairs, not including repaving or resurfacing or relaying existing pavement or making sidewalk repairs, shall be at public cost. (Amendment of March 3, 1959).

Sec. 3a. Same; Create by Ordinance. The city council shall have power to pave, repave, macadamize, curb, recurb, change grade, widen or narrow streets or roadways, gutter, resurface, or relay existing pavement or otherwise improve any street, streets, alley, alleys, public grounds, public way or ways, or parts thereof, including the sidewalk space and by ordinance to create paving, repaving, grading, curbing, recurbing, resurfacing, sidewalks or improvement districts thereof, to be consecutively numbered and such districts may include two or more connecting or intersecting streets, alleys or public ways and may include two or more improvements, in this section mentioned, in one proceeding. (Amendment of March 3, 1959).

Sec. 3b. Same; Without Petition. The city council may order such improvements of any street, alley, alleys, public way or public grounds and cause them to be made:

- (1) When it is embraced within a district, the outer boundaries of which are within a distance of one and one-half miles from the block in which the city hall is situated, or
- (2) When the street is part of a street designated by ordinances as an arterial street, or
- (3) As authorized by state law.

The city council may also, without petition, order the streets, alleys, and sidewalk space in any grading district to be graded to the established grade and construct sidewalks.

The city council may also, without petition, order the improvement in any ornamental lighting district when the improvement is embraced within a district, the outer boundaries of which are within a distance of one-half mile from the block in which the city hall is situated. (Amendment of November 7, 1978; effective January 6, 1979).

Sec. 3c. Same; With Petition. Except as otherwise authorized by state law, when the street sought to be improved is not part of a street designated by ordinance as an arterial street and such improvements are embraced within a district, the outer boundaries of which are more than one and one-half miles distant from the block in which is situated the city hall, no such improvement except grading or sidewalks shall be finally ordered by the city council until a petition, signed by the owners of the record title, representing a majority of the feet frontage of property directly abutting upon the street, streets, alley, alleys, public way or public grounds proposed to be improved, shall be presented and filed with the city clerk petitioning therefor. The sufficiency of the petitions so presented shall be determined by the city council and their determination thereof shall be conclusive in the absence of objections made and presented to the city council prior to the letting of the contract for the improvement. In determining the sufficiency of the petitions so presented, intersections shall be disregarded and any lot or ground owned by the city shall not be counted for or against such improvement. (Amendment of November 7, 1978; effective January 6, 1979).

Sec. 3d. Same; Advertise for Bids. The city shall advertise for and receive formal sealed bids for such improvements, in the manner prescribed in Article VII, Section 6. (Amendment of May 10, 1966).

Sec. 3e. Same; Assess Cost. Cost of so improving the street, streets, alley, alleys, public grounds or public ways, including sidewalks, may be in whole or in part assessed, proportionate to benefits, on the property specially benefitted. The total amount shall be levied at once one-tenth to be delinquent in fifty days, one-tenth annually thereafter, each installment to draw six percent interest from levy, payable annually, installments delinquent to draw interest at the rate of seven percent per annum after the delinquent date; provided, however, that the city council shall have power and authority to fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improve-

ments may be made in accordance with the provisions of Article VIII, Section 10a. If abutting property is not of uniform depth, or it be just and proper, the city council may fix the depth to which property may be charged and assessed for benefits, and to greater depth than the lots fronting on the street, streets, alley, alleys, public grounds or public ways so improved and the determination thereof by the city council shall be conclusive. (Amendment of March 3, 1959).

Sec. 3f. Same; Real Estate Belonging to County, Municipal or Quasi-Municipal Corporations.

If there shall be any real estate belonging to any county, school district, municipal or quasi-municipal corporation, cemetery association, library board or other public board of association, abutting upon the street, streets, alley, alleys, public way or grounds proposed to be improved, the proper officer or officers having control and jurisdiction over such real estate or authorized to purchase, lease, hold or convey real estate, shall have power to sign a petition for paving, repaving, curbing, recurbing, grading, changing grade, guttering, resurfacing or relaying existing pavement, or otherwise improving any street, streets, alley, alleys, public ways or public grounds or improvement districts, and when such improvements have been ordered; it shall be the duty of the county board, board of education, library board, cemetery trustees, or other proper officers controlling and having jurisdiction over said real estate benefitted on account of said improvement, to pay such special taxes or assessments, or its proportionate share of the cost of said improvement; and in the event of neglect or refusal so to do, the city may recover the amount of such special taxes or assessment, or proportionate share of the cost, in any proper action, and the judgment thus obtained may be enforced in the usual manner. (Amendment of November 4, 1949).

Sec. 3g. Same; Sewer, Gas and Water Service Pipes. The city council may order the owner of lots abutting on a street to be paved to lay sewer, gas and water service pipes, to connect with mains, and, if they neglect so to do, after five days' notice, by publication in a newspaper of general circulation in the city, or in place thereof, personal service of such notice as the city council in its discretion may direct, the city council shall have the power to cause the same to be laid, along with and as part of the work of the improvement district, and assess the cost thereof against the property of such owner, along with and in the manner provided for making the assessment to pay the cost of the pavement or improvements in the improvement district, and to be collected and enforced as special taxes. (Amendment of November 4, 1919).

Sec. 3h. Same; Bonds. For the amount of special assessments, the council may, by ordinance, issue bonds, called "_____ bonds of District No. _____", payable in not over twenty years at such rate or rates of interest as the council shall determine at the time of their issuance, and such special assessment shall be a sinking fund for the payment thereof, and the total special assessment on any lot may be paid without interest within fifty (50) days of its levy and the money so paid shall go to the sinking fund; provided, however, that if the city council exercises the power and authority to fix the period of time for the payment of special assessments in accordance with the provisions of Article VIII, Section 10a, the city council shall have power and authority to issue bonds in accordance with the provisions of Article VIII, Section 10a. (Amendment of April 7, 1981; effective June 6, 1981; prior amendment of March 3, 1959).

Sec. 3i. Same; Street Railways. Cost of improving intersections may be paid by the city or assessed against the lots or lands in said district as the city council may determine; but street railways shall be charged with the cost of all paving or improvements included between and to one foot beyond the outer rails in any part of the street as provided in Section 17 of this article. (Amendment of November 4, 1919).

Sec. 3j. Same; Intersections, Curb and Gutter Bonds. To pay the cost of improvement of intersections, if not included in special assessments on benefitted property and along public property not assessable, the city may issue bonds called "paving bonds" to run not over twenty years, the proceeds whereof shall be used only for paying the cost of such improvements, the aggregate sum issued in any one year not to exceed fifty thousand dollars (\$50,000.00). Such bonds shall not be issued until submitted to the electors and authorized by a majority of those voting thereon. To pay the cost of curbing and guttering streets, alleys, or public ways, the city council may issue bonds called "curbing-guttering bonds, District No. _____" payable in not over twenty years with interest at not to exceed six percent and assess the cost thereof, not exceeding the special benefits, against the abutting property, said assessments to become due, delinquent, draw interest, and be subject to like penalty and collected as other special taxes, and constitute a sinking fund for the payment of such bonds. No bonds of either class shall be sold or delivered until necessary to make payments for work done on such improvements. (Amendment of March 3, 1959).

Sec. 3k. Same; Contractor's Bonds. Whenever the city enters into a contract for the improvement of any street or other public way, or for the construction of any public building or other public structure or improvement, it shall require the person, persons, firm or corporation to whom the contract is awarded to give bond in an amount not less than the contract price with a corporate surety company for the faithful performance of the contract, and also conditioned for payment of all laborers and mechanics for labor that shall be performed, and for the payment for material and for equipment rental which is actually used or rented in performing the contract with the city. (Amendment of May 10, 1966).

Sec. 4 1/4. Graveling Districts. The city council shall have power and authority to create graveling or regravelling districts for the purpose of improving streets with gravel, crushed rock or other similar material, and such districts may include two or more connecting or intersecting streets, alleys or public ways and may include two or more such improvements in one proceeding. All such districts to be known as graveling or regravelling districts, shall be created by ordinance, and be consecutively numbered, and shall designate the property in the district benefitted. Upon the creation of any graveling or regravelling district, the city council shall have power to order such improvement and cause it to be made, without petition, either by contract with the lowest responsible bidder or directly by the city, and to assess the cost thereof against the property in such district, not exceeding the special benefits accruing on account thereof, in the manner provided in Section 3e of Article VIII, except that one-third of such special assessment shall be delinquent in fifty days after the levy and one-third annually thereafter; provided, however, that the city council shall have power and authority to fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improvements may be made in accordance with Article VIII, Section 10a. If one-third of such special assessment shall be delinquent in fifty days after the levy and one-third annually thereafter, for the amount of special assessments, bonds of the city known as "graveling district bonds" or "regravelling district bonds" may be issued by the city council payable in not to exceed three years from date with interest not exceeding six percent per annum, payable annually, and such special tax and assessment shall constitute a sinking fund for the payment thereof. If the city council exercises the power and authority to fix the period of time for the payment of special assessments in accordance with the provisions of Article VIII, Section 10a, the city council shall have power and authority to issue bonds in accordance with the provisions of Article VIII, Section 10a. (Amendment of March 3, 1959).

Sec. 4 1/2. Improvement Districts. The city council shall have power, by ordinance, to create public improvement districts for the opening, widening, or enlarging of any street, alley, boulevard, or public way or for the establishing or enlarging of any park or parkway within the city. Such special improvement district having been created, the city council may acquire, by purchase or by condemnation proceedings, the necessary lands, lots, or grounds to carry out the purposes of the district. The cost thereof may be, in whole or in part, assessed proportionate to benefits on the property specially benefitted. The special assessment shall be levied and assessed as provided by Section 14 of Article VIII. The cost, if any, above such special

assessments shall be paid out of funds appropriated for that purpose or out of the general fund. The total amount of the special assessments shall be levied, one-tenth to be delinquent in fifty days from the levy and one-tenth annually thereafter, each installment to draw six percent interest from the date of levy, payable annually. Installments delinquent shall draw interest at the rate of seven percent per annum after the delinquent date; provided, however, that the city council shall have power and authority to fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improvements may be made in accordance with the provisions of Article VIII, Section 10a. If one-tenth of such special assessments shall be delinquent in fifty days after the levy and one-tenth annually thereafter, for the amount of special assessments the city council may, by ordinance, issue bonds called "special improvement bonds," payable in not to exceed ten years from date, with interest not exceeding six percent per annum, payable annually, and such special assessments shall be a sinking fund for the payment thereof. If the city council exercises the power and authority to fix the period of time for the payment of special assessments in accordance with the provisions of Article VIII, Section 10a, the city council shall have the power and authority to issue bonds in accordance with the provisions of Article VIII, Section 10a. (Amendment of March 3, 1959).

Sec. 4 3/4. Shade and Ornamental Trees. The city council shall have power to provide for the planting and protection of shade or ornamental trees upon the streets or boulevards or public ways, including the sidewalk ways, in the city and to assess the cost thereof, to the extent of special benefits, against the abutting property, and to provide for the removal or trimming of trees located upon the streets, boulevards or public ways, including the sidewalk space, and to trim the branches of trees overhanging the same and to assess the cost thereof against abutting property as a special assessment. Any such special assessment shall be levied and assessed as provided in Section 14 of Article VIII. (Amendment of November 4, 1919).

Sec. 5. Contract to Lowest Bidder. All street improvements, the cost of which, or any part thereof, is to be levied as a special tax on property, shall be done by contract with the lowest responsible bidder, provided, however, that if the city received no bids, the city may make improvements costing not to exceed \$25,000.00 on a force account basis. (Amendment of May 13, 2008; prior amendment of March 3, 1959).

Sec. 6. Repairing Paving. The city council may levy a tax on all taxable property in the city to provide a fund for the repairing of paving in the city. The foregoing, however, shall not be construed or deemed to include the power to levy such tax for the purpose of repaving, but shall only include the cost of repairing. The city council may do or cause to be done the work of repairing such paving, and may provide the necessary plant and material for such work out of the fund herein provided. The foregoing, however, shall not be held or deemed to exempt any railway or street railway company from its duty to pave, repave, and keep in repair that portion of the paved street between its tracks and to one foot outside of its outer rails.

Sec. 7. Sewer Districts. The city council shall have the power to lay off the city into suitable districts for the purpose of establishing a system of sewerage and drainage; to provide such system and regulate the construction, repairs and use of sewers and drains, and to provide penalties for any obstruction of, or injury to, any sewers or drains, and for any violation of the rules and regulations with respect thereto that may be prescribed by the city council. The city council shall have power to create, by ordinance, sewer districts and designate the property to be benefitted on account of the construction of sewers in such districts. Thereupon, the city council shall have power to construct or cause to be constructed, either by contract with the lowest responsible bidder or directly by the city, such sewer or sewers in such district or districts and assess the cost thereof against the property in such district or districts. (Amendment of November 4, 1919).

Sec. 8. Sewer Assessments. Special taxes may be levied by the city council for the purpose of paying the cost of constructing such sewers and drains within the city, such taxes to be levied upon the real estate lying and being within the sewerage districts in which such sewer or drain may be, to the extent of benefits to such property by reason of such improvements, the benefits to such property to be determined by

the city council as in other cases of special assessments; and all taxes or assessments made for sewerage or drainage purposes shall be levied and collected in the same manner as other special assessments in paving districts, except that such special assessments shall be levied in two installments maturing in one and two years respectively, and shall be subject to the same penalty; provided, however, that the city council shall have power and authority to fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improvements may be made in accordance with the provisions of Article VIII, Section 10a, and if the city council exercises such power and authority, it shall also have the power and authority to issue bonds in accordance with the provisions of Article VIII, Section 10a. (Amendment of March 3, 1959).

Sec. 9. Sewer District Bonds. The city council may issue sewer district bonds to cover the cost of the work of constructing sewers in sewer districts, and the special assessment levied on account of such work shall constitute a sinking fund for the payment of such bonds.

Sec. 10. Sewer Fund. The city council may levy a special tax on all property in the city in addition to the tax levy provided for in this charter of five thousand dollars, and the assessments made on account of the construction of such sewers in such district shall be credited to said fund and when paid may be used again by the city council for the construction of district sewers. When the amount in said fund, including the assessments credited thereto, shall exceed the sum of five thousand dollars no levy shall be made, and no levy shall be made at any time to increase the amount of said fund, including the credits belonging thereto, above the sum of five thousand dollars. The purpose being that said five thousand dollar fund may be used in place of a bond issue and the special assessments shall be used to reimburse said fund, and that said fund created by tax levy shall at no time, including credits thereto, exceed the sum of five thousand dollars.

Sec. 10a. Special Assessment Revolving Fund. Notwithstanding any existing provision to the contrary, and in addition to the powers and authority elsewhere provided, for the method of creation or operation of, or its application to special improvement districts, including grading, paving, repaving, resurfacing, ornamental lighting, water, sewer, gravel, sidewalk or any other improvement district where the cost of any such improvement is assessed in whole or in part against the property in said district benefitted by such improvement, the city council shall have power and authority to:

(1) Fix the period of time, not to exceed twenty years, in which special assessments against any property for the payment of the cost of such improvements may be made. The city council shall fix such period at the time the district is created or at the time the benefits are assessed. The special assessment may be paid without interest within fifty days after the date on which the levy of the assessment is made. If not so paid, then the amount of such assessment shall be payable in equal annual installments during the period so fixed by the council. The first installment of any such special assessment shall become delinquent fifty days after the date of levy of the tax, and subsequent installments shall become delinquent annually thereafter.

(2) Create and establish a special assessment revolving fund for the purpose of paying from said fund the cost of such special improvements as completed and accepted and to retire, when due, outstanding special assessment obligations. The city council shall have the power to appropriate money for said fund and augment same by depositing to its credit existing special assessment funds and all special assessment collections, including interest.

(3) Without further vote of the people, and notwithstanding any existing provision to the contrary, to issue negotiable bonds of the city from time to time for the purpose of creating, maintaining, and replenishing such special assessment revolving fund. Such bonds shall be known as "special assessment revolving fund bonds" and be issued to mature serially beginning one year after date and continuing thereafter not to exceed twenty years, and bear interest, payable semiannually, at such annual rate or rates as shall be established by the city council, and the full faith and credit of the city shall be pledged for the payment of the principal of and interest on said bonds so issued from time to time, and the city council shall annually provide for the levy of a tax upon all the taxable property located in said city sufficient to pay the principal of said bonds, and the interest thereon, as the same mature, which tax shall be in excess of and in addition to all other

taxes now or hereafter authorized to be levied by said city. (Amendment of September 9, 1974; effective November 18, 1974; prior Sec. 10a repealed, effective November 18, 1974).

Sec. 10b. Delinquent Special Assessments. Notwithstanding any existing provision in this charter to the contrary, whenever two installments of an assessment made under the provisions of Article VIII, Section 10a, shall become delinquent, all remaining unpaid installments of such assessment, if any, shall thereupon become delinquent and be due and payable forthwith. (Amendment of March 3, 1959).

Sec. 11a. Garbage and Refuse. The city shall also have power to provide for garbage and refuse collection and utilization or disposal. The city council shall have power, by ordinance, to prescribe and enforce methods of segregation of different kinds of garbage by the residents of the city, to provide for the collection of garbage and refuse either by equipment owned and operated by the city or by letting contracts therefor; to divide the city into convenient garbage districts. If contracts are let, notice of intention to let such contracts shall be published for at least ten days and sealed bids received. The notice shall specify the district or districts to be covered by the contract and the term thereof, which in no case shall exceed one year. The council shall determine the lowest and best bid and may reject all bids for any district. If all bids for a district are rejected, the council may readvertise or at its option, may provide for the collection of garbage or refuse within such district by equipment, owned and operated by the city. If the city provides for the collection of garbage and refuse in a district, either by city equipment or by contract, it may prohibit collection thereof within such district by any other person.

The council may by ordinance fix charges for the collection of garbage to be paid by the persons, firms or corporations causing the same to accumulate and may make the same a lien upon the premises where the same is accumulated enforceable, as water rates or other municipally furnished utilities, or such collection and disposal may be paid for in whole or in part from funds raised by general taxation as shall be deemed best by the city council from time to time.

The city council may also provide for the utilization of any garbage or refuse in whatever manner deemed by the council expedient. The council may sell the garbage or refuse adapted for animal feed or other beneficial use and likewise the garbage or refuse valuable for lot filling or other purposes, or the council may, at its option, use any such garbage or refuse for city purposes. The council may establish feed plants, at any point within ten miles of the city limits, where garbage or refuse shall be conserved or utilized and stock the same or establish any other form of garbage disposal plants. All the powers possessed by the city under Section 11, Article VIII, for the purchase, construction, acquisition, ownership and operation of other public utilities shall extend to and include the purchase, construction, acquisition, ownership and operation of garbage feed plants or garbage or refuse disposal plants of whatever kind or character determined upon, and the question as to bonds for such purposes shall be submitted in the manner and form therein provided. (Amendment of November 5, 1918).

Sec. 12. Income Public Utilities, How Applied. The revenue received by the city from its utility operations shall be applied (1) first, to the payment of the expenses of the operation and maintenance thereof, (2) second, to the payment as the same shall become due of the principal of, redemption premium, if any, and interest on any bonds issued for the purchase, acquisition, construction, reconstruction, improvement, extension, equipping or furnishing of such utility and payable from the revenues generated from the city's ownership and operation of such utility, together with any reserves established for the payment of such principal, redemption premium and interest, and (3) third, to the establishment of such reserves as may be required for any lawful purpose in connection with such utility; provided, however, that after the payments required in (1) and (2) above and prior to the establishment of any reserve permitted in (3) above, five percent of the total gross revenue received from the sale of electricity within the corporate limits of the city of Lincoln and any incorporated city or village within which it sells electricity at retail, less an amount equivalent to the payments required to be made by the city directly or indirectly with respect to property within or operations conducted by the city shall be paid annually in lieu of taxes, and divided among the county of Lancaster, the municipality and the school district within which the tax is collected, in the proportion that their respective

property tax levy rates in each such year bear to the total of such tax levy rates. The council shall have the exclusive power to fix the rates and charges for all such public utilities which rates and charges shall be sufficient to provide the funds necessary to make all payments required by this Section 12. (Amendment of November 5, 1996: prior Amendment of May 10, 1966).

Sec. 13. Public Market. The city council may by ordinance purchase grounds for, and erect and establish, market houses and market places and regulate and govern the same, and prescribe the fees to be charged persons for stalls therein; provided, the revenue so derived shall be applied: First, to the payment of the salaries of the officers appointed to take charge of said market; second, to the payment of repairs of the market house; and third, to the payment of the cost of erecting said market house. After all salaries, repairs and costs of construction have been paid, the surplus, if any remaining, shall be disposed of as the council shall direct. The city council may contract with any person or persons, or association of persons, companies or corporations for the erection and regulation of said market house and market place on such terms and conditions and in such manner as the council may prescribe and raise all necessary revenue therefor as herein provided; and locate market houses and market places and buildings aforesaid on any street, alley, or public ground, or any land purchased for such purpose; and provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city; provided, any such improvement, costing in the aggregate a sum greater than five hundred dollars, shall not be authorized until the ordinance providing therefor shall be first submitted to and ratified by a majority of the legal voters thereof.

Sec. 13a. Municipal Coal and Fuel Yard. The city council shall have power to establish, conduct and maintain a municipal coal and fuel yard and for that purpose they may engage in the general business of buying and selling coal and fuel to the inhabitants of the city. The city shall not charge for coal or fuel more than the cost thereof to the city, plus the cost of handling the same, including contingencies. (Amendment of September 12, 1922).

Sec. 13b. Municipal Gasoline Station. The city council shall have power to engage in the business of selling gasoline and oil to the inhabitants of the city, both at retail and wholesale, and for that purpose shall have power to acquire and own such real and personal property as may be necessary and incident thereto. The city shall not charge for gasoline and oil sold by it more than the cost thereof to the city plus the cost of handling the same, including contingencies; provided any surplus remaining in the gasoline department fund in excess of fifteen thousand dollars at the end of the present fiscal year, 1933, may be transferred to a special fund to be used for the purpose of furnishing employment by the city of Lincoln, or to purchase materials in meeting federal allotments for employment relief in the city; provided further that commencing September 1, 1935, and thereafter, only such surplus as is in excess of twenty thousand dollars may be so transferred for said purposes only and said sum of twenty thousand dollars shall be retained in said gasoline department fund as a revolving fund. (Amendment of August 14, 1934).

Sec. 14. Special Assessments, How Levied. Special tax assessments to pay cost of local improvements shall be made in the following manner:

First: Assessment shall be made on the district by resolution of the council at any meeting, stating cost of the improvement and benefit accruing to the property in the district to be taxed which, with the vote by yeas and nays, shall be recorded in the minutes. Therewith shall be submitted a proposed distribution of the tax on each separate property to be taxed subject to action of the board of equalization as prescribed therein.

Second: Notice of the time of assessment shall be published once in some newspaper published and of general circulation in the city at least ten days before the assessment, or posted as elsewhere herein provided, and that the council will sit as a board of equalization to distribute the tax at a time in such notice fixed, not less than five days after such assessment, and the proper distribution of such special tax shall be open to examination of all persons interested.

Property shall not be specially taxed for more than the total cost of the improvement and no property shall be taxed more than the special benefit accruing thereto by the improvement. If the aggregate tax be less than the cost of improvement, the excess shall be paid from the general fund. Special taxes may be assessed as the improvement progresses and as soon as completed in front of or along property taxed, or when the whole is completed, as the council shall determine. No special tax or assessment which the city council acquires jurisdiction to make, shall be void or invalidated or affected in any way, for any irregularity, defect, error or informality in procedure, in levy, returns, equalization, collection, or the mode and manner of advertising the sale of property therefor. (Amendment of November 6, 1956).

Sec. 15. Special Assessments, Certification to Treasurer. When any special tax is levied, unless otherwise in this charter provided, it shall be the duty of the clerk to issue a certificate describing such lot or piece of ground by number and block, and stating the amount of special tax levied thereon and the purpose for which such tax was levied, and when the same shall become due and delinquent; and he shall forthwith deliver a duplicate or such certificate to the city treasurer, who shall without delay give at least five days' notice through a newspaper published in the city, of the time when such tax will become delinquent. To every such certificate the clerk shall append a warrant in the usual form, requiring such city treasurer to collect such special tax or taxes, by distress and sale of goods and chattels of the person, persons or bodies corporate owing any such special tax or taxes, if the same be not paid before the time fixed for the same to become delinquent, and to make his return of such warrants with his doings thereon on or before the fifteenth day of July next thereafter.

Sec. 16. Special Assessments, Diverse Ownership. It shall be sufficient in any case to describe the lot or piece of ground as the same is platted or recorded, although the same belong to several persons, but in case any lot or piece of ground belong to different persons, the owner of any part thereof may pay his portion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Sec. 19. Sidewalks, Sidewalk Assessments. The owner of abutting property on public streets is hereby primarily charged with the duty of constructing and keeping the sidewalks thereon free from snow, ice, and other obstruction, and in default thereof, upon notice to such abutting property owner as hereinafter provided, such abutting property owner shall be liable for injuries or damages sustained by reason thereof. The city shall have general charge, control and supervision of the streets and sidewalks thereof; and shall have full power to require owners of abutting property to keep the sidewalks thereof free from snow, ice, and other obstructions, and to require such abutting property owners to construct the sidewalks of such material and of such dimensions and upon such grade as may be determined by the council. In case such abutting property owner refuses or neglects, after notice, the length and sufficiency of which is to be determined by ordinance by the city council, to construct such sidewalk, or clear snow, ice, or other obstructions from such sidewalk, the city through the proper officers may construct such sidewalk or cause the same to be constructed, or cleared of snow, ice, or other obstructions, and report the cost thereof to the council, whereupon the council shall levy and assess the same against such abutting property as provided in article VIII, section 14. The cost of constructing, grading, or clearing thereof shall be assessed at a regular council meeting by resolution, fixing the cost along abutting property as a special assessment against such property, and the amount charged or the cost thereof, with the vote by yeas and nays shall be spread upon the minutes. Notice of the time of such meeting of the council and its purpose shall be published once in a newspaper published and of general circulation in the city at least five days before the meeting of the council is to be held, and personal notice delivered by United States mail to the property owner's last known address shall be given such abutting property owner in place thereof. The city shall be responsible for maintaining, repairing and replacing sidewalks on public streets, and the cost of all such maintenance, repair and replacement shall be paid by the city from the city's general funds. (Amendment of November 6, 1990: prior amendment of November 7, 1978; effective January 6, 1979).

Sec. 20. Sidewalk Assessments, Collection. Special sidewalk assessments may be collected in either of the following ways:

First: In the matter usual for the collection or foreclosure of county or state taxes against real estate.

Second: By foreclosure as in case of county or state taxes against real estate; provided, however, in the foreclosure of such special sidewalk assessments any number of parties, owners of abutting property against which property a special sidewalk assessment has been made may be made parties defendant, and any number of special sidewalk assessments may be foreclosed in one action, the decree, however, to be separate as to each particular piece of abutting property against which such special sidewalk assessments have been levied; provided, further, a copy of the action of the council in making such special sidewalk assessments certified by the city clerk, shall be received in evidence as prima facie evidence of the regularity of all proceedings in the matter of the making and levying of such special sidewalk assessments. Such special sidewalk assessments shall constitute a lien prior and superior to all other liens except liens for taxes or other special assessments upon such abutting property. Provided, further, in the foreclosure of such special assessments, the action may be brought in the name of the city against any and all parties subject to the payment of such special sidewalk assessments in one or more actions, and the city may become a purchaser thereof for an amount not exceeding the amount of the special sidewalk assessment, interest and penalties thereon.

Third: Or the city clerk upon request of the council, shall, under seal of the city, make out a statement containing a description of the property against which special sidewalk assessments are delinquent, the amount of such special sidewalk assessments, together with interest and penalties thereon, the name of the owner of such abutting property at the time of the levy and the date of the levy, and shall transmit the same to the clerk of the district court; and upon request of the city, the clerk of the district court shall issue an order of sale of such abutting property and deliver the same to the sheriff, who shall thereupon cause such property to be advertised and sold as in case of sale of real estate under judgment and execution, except that it shall not be necessary for the sheriff to cause such property to be appraised, and upon sale the sheriff shall report the sale thereof to the district court for confirmation.

Sec. 22. Special Assessments, Interest Rate. In addition to all existing charter provisions, and notwithstanding any charter provisions to the contrary, in making the levy for special assessments for street and alley paving, repaving, resurfacing, grading, improvements, graveling, sewer, water, ornamental lighting and all other improvement districts, the cost of which is to be paid for from special assessments against the property benefitted, the city council shall fix the rate of interest charge per annum at the time of making the said levy, payable annually, on unpaid installments which are not delinquent. Installments which are delinquent shall bear interest at the same annual rate as that established by law for delinquent general real property taxes. (Amendment of September 9, 1974; effective November 18, 1974).

ARTICLE IX

FINANCE AND TAXATION

Sec. 1. Fiscal Year. The fiscal and budget year of the city government shall begin on the first day of September and shall end on the last day of August of the following year unless the council by ordinance establishes a different fiscal and budget year. (Amendment of March 3, 1959).

Sec. 2. Dog Tax, Road Tax. The council shall have the power to assess, levy and collect a special tax on all dogs in the city, and the fund so arising shall be paid to the city treasurer and expended as the council may direct. Road taxes collected from property in the city shall be paid to city treasurer and expended as the council may direct. (Amendment of May 7, 1985, effective July 6, 1985).

Sec. 3. Taxes, Maximum Levy. The city shall have power to levy a tax each year for general revenue purposes upon all property subject to taxation; provided that the maximum amount of taxes that can be levied by the city in any one year for general revenue purposes shall not exceed an amount known as the city tax limit. The city tax limit is a tax ceiling established by using the September 1, 1966, city dollar tax limit as an initial tax limit, and increasing the tax limit after 1966 each following year by seven percent, so that in each fiscal year thereafter the amount of the city tax limit shall be the amount of the city tax limit for the previous year plus seven percent thereof. In addition, the city shall also have power to levy taxes each year sufficient to pay any judgment existing against the city and the interest on the bonded debt and the principal on any bonded debt maturing during the fiscal year or within six months thereafter, as well as taxes authorized by state law. The city is also authorized to receive all taxes collected and distributed pursuant to state law, and in lieu of tax payments imposed by law. (Amendment of May 14, 1968).

Sec. 3a. Taxes-Agreement for Collection. Notwithstanding any existing provisions in this charter to the contrary, whenever the city has completed agreement with the county of Lancaster for the collection of city taxes, the officials of the county as designated by state law shall constitute a board of equalization for the city except as to special assessments of the city, and the dates when taxes of the city except special taxes shall be a lien or shall be due and payable or shall be delinquent, shall be as provided by state law for taxes otherwise collected by the county. (Amendment of May 10, 1966).

Sec. 3f. Auditorium, Additional Bond Issue. In addition to the power and authority elsewhere in this charter provided, and in addition to the bonds heretofore authorized for such purposes, the city council for the purpose of erecting a public building to be used as a city auditorium and equipping the same, is hereby authorized to borrow money and pledge the credit and property of the city upon its negotiable bonds, in an amount not to exceed \$1,500,000.00 without further consent of the voters, and said bonds shall mature serially beginning one year after date and continuing thereafter for not to exceed twenty years, in such annual installments as the city council shall determine, said bonds to bear interest at a rate of not to exceed three percent per annum, payable semi-annually, and to be redeemable with or without premium, at the option of the city, at any time after five years from their date, and the city council shall annually provide for the levy of a tax upon all taxable property located in said city sufficient to pay the principal of said bonds and the interest thereon as the same mature, which tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by said city. (Amendment of May 3, 1949).

Sec. 3g. Storm Sewer Bonds. Notwithstanding any existing provisions in this charter to the contrary and in addition to the power and authority elsewhere in this charter provided, the city council, for the purpose of constructing additions to, extensions of, improvements or betterments to the storm sewer system of said city, is hereby authorized to borrow money and pledge the credit and property of the city upon its negotiable bonds in an amount not to exceed \$3,500,000.00 without further consent of voters. Said bonds shall mature serially beginning one year after date and continuing thereafter for not to exceed thirty years, in such annual installments as the city council shall determine, said bonds to bear interest at a rate not to exceed three percent per annum, payable semi-annually, and to be redeemable with or without premium, at the option of the city, at any time after five years from their date, and the city council shall annually provide for the levy of a tax upon all taxable property located in said city sufficient to pay the principal of said bonds and the interest thereon as the same mature, which tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by said city. (Amendment of June 15, 1954).

Sec. 4. Equalization. The city council shall constitute the board of equalization for the city, and shall have power as such board to equalize all taxes and assessments, and to correct any errors in the listing or valuation of property, and to supply any omissions in the same. A majority of all the members elected to the council shall constitute a quorum for the transaction of business properly before the board, but a less number may adjourn from time to time and compel the attendance of absent members. When sitting as a board of equalization on general or special taxes the council may adopt rules and regulations as to the manner

of presenting complaints and applying for relief. It shall not invalidate or prejudice the proceedings of the board that a majority of the members thereof after organization as a board do not in fact continue present during the advertised hours for the sitting of such board; provided, however, the city clerk and some member of the board shall be present to receive complaints or applications for relief, and provided, further, no final action shall be taken with respect to any taxes or assessments by the board until a majority of the members of the council sitting as a board of equalization shall be present and in open session.

Sec. 5. Powers of Board of Equalization. The city council sitting as a board of equalization shall hold a session of not less than three nor more than thirty days annually commencing on the first Tuesday after the third Monday in June, and shall have power:

First: To assess all property real and personal not assessed and which is not exempt.

Second: To review assessments made and correct the same as shall appear to be just; provided, however, the board shall not increase the assessment of any person, partnership or corporation until such person, partnership or corporation shall have been notified by the board to appear before the board and show cause if any why the assessment should not be increased. In case personal service of such notice cannot be made in the city, notice may be given by publication, and it shall be sufficient if such notice is published in one issue of a daily paper of general circulation within the city.

Third: To equalize the assessments of all real and personal property in the city and to correct any errors in the listing or valuation thereof.

Sec. 6. Equalization of Special Assessments. The council shall act as a board to equalize all special assessments, except for sidewalks, affecting single properties, before special taxes for local improvements be finally levied, distributed and apportioned, and to correct any errors therein, upon notice as provided herein. The board shall organize and be in session until it hears all complaints owners may make to the proposed distribution and levy of the tax, and shall equalize the tax and correct errors therein. If by reduction of the amount charged on any property it be necessary to increase the proposed amount upon other property, the owner shall be notified in person or at his residence, or by five days' publication if not a resident, or if changes be many, another distribution may be submitted by any member or any owner interested, and notice by five days' publication be given of a second session for equalization, at which time the equalization shall be completed. (Amendment of April 7, 1981; effective June 6, 1981).

Sec. 7. Testimony Before Council or Board of Equalization. The council or any committee of the members thereof, or the council when sitting as a board of equalization shall have power to compel the attendance of witnesses for the investigation of matters that may come before them, and the presiding officer of the council or chairman of such committee for the time being, may administer the requisite oaths, and such council or committee, or the council when sitting as a board of equalization, shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Sec. 8. Waterworks Revenue Bonds. In addition to any existing charter provision authorizing the issuance of general obligation bonds of the city and the levy of taxes to pay for the same for the purpose of constructing or aiding in the construction of a system of waterworks, additions thereto or extensions thereof, or any other betterments, and notwithstanding any existing charter provisions to the contrary, the city council may borrow money and in evidence thereof issue bonds for the purpose of constructing additions, extensions, improvements or betterments to the waterworks system of said city, and to refund such bonds from time to time at maturity or prior to maturity with the consent of the holders thereof unless said bonds are subject to redemption prior to maturity, all of which bonds shall be payable solely and only from the revenues derived and to be derived from the operation of the waterworks system of said city. Such revenue bonds shall not be general obligations of the city and no taxes shall be levied for the payment of either principal or interest on such bonds, but said bonds shall be payable solely and only from the revenues to be derived from the operation of the waterworks system of said city, and whenever any such revenue bonds are issued the revenues derived from the operation of the waterworks system shall be deposited in a separate fund

designated as the "water fund" of the city, and shall be used and may be pledged to pay the cost of operation and maintenance of the waterworks system and to pay the principal of and interest upon the revenue bonds of the city issued under this section of the charter, and to carry out any covenants that may be made in and by the ordinance authorizing the issuance of such bonds for the assurance of the payment of such bonds, and it shall be the duty of the governing body of the city to charge rates for water and service of said waterworks system sufficient at all times to pay the cost of operation and maintenance thereof and to pay the principal of and interest upon all revenue bonds issued under this section of the charter, and to carry out any covenants that may be provided in the ordinance authorizing the issuance of any such bonds. Such revenue bonds shall be subject to the provisions of Section 44 of this Article IX.

The holders of any of the revenue bonds or any of the coupons of any revenue bonds issued under this section in any civil action, mandamus or other proceeding may enforce and compel the performance of all duties required by this section and the covenants made by the city in the ordinance providing for the issuance of such bonds, including the making and collecting of sufficient water rates for the specified purposes and for the proper application of the income therefrom. (Amendment of May 15, 1990: prior Amendment of May 5, 1953).

Sec. 9. Property Escaping Taxation, How Assessed. If for any reason any taxable property in the city shall escape taxation in any year, it shall be the duty of the city council when sitting as a board of equalization in any subsequent year to assess such property at a fair valuation for the year or years for which such property should have been assessed, and to levy thereon under such assessment a tax at the same rate and upon the same basis that other taxable property was assessed for the year in which such property escaped taxation, which tax and levy shall be in addition to all current or other taxes on the same property, and shall be added thereto.

Sec. 10. Tax List, Delivery to Treasurer. As soon as the assessment roll shall have been equalized, and the annual levy made thereon, the city clerk shall immediately make out a tax list, which shall be as nearly as practicable in the form prescribed by law for the tax list to be furnished to the county treasurer, and he shall deliver such tax list to the city treasurer on or before the first day of October next after the date of the levy in each year; errors in the name of persons assessed may be corrected by the treasurer, and the tax collected from the person intended, and in case the treasurer find that any land has been omitted in the assessment, he shall report that fact to the council, who may assess the same and direct the correction of the tax list as in this charter provided.

Sec. 11. Tax List, Warrant Annexed. To each tax list so delivered a warrant under the hand of the city clerk shall be annexed, to be substantially in the following form, to wit:

In the name and by the authority of the State of Nebraska:

To _____, City Treasurer of the City of Lincoln, Nebraska.

You are hereby commanded to collect from each of the persons and corporations named in the annexed tax list and owners of real estate described therein the taxes set down in such list opposite their respective names, and the several parcels of land described therein; and in case any person or corporation upon whom any such tax or sum is imposed, or who by law is required to pay the same, shall refuse or neglect to pay the full amount thereof before the first day of January next, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed as are by law required to pay such tax.

Given under my hand and official seal this ____ day of _____, A.D. 19____.

City Clerk of the City of Lincoln

Sec. 12. Authority Under Tax List Warrant. Such warrant shall fully authorize and empower the city treasurer to levy on any personal property belonging to such delinquent, and such warrant shall be a full and complete justification of the treasurer in any action brought to recover damages or costs for any act or proceeding by him done or taken in conformity with the commands thereof.

Sec. 13. Same. The powers, rights, duties and proceedings of the city treasurer and of his assistants shall in all respects, except as herein otherwise provided, and as far as applicable, be the same in respect to the collection of municipal taxes and assessments as those of the county treasurer in like cases with reference to the collection of county taxes.

Sec. 14. Taxes, When Delinquent. On the first day of December next succeeding the levy thereof, all unpaid city taxes shall become delinquent and shall thereafter draw interest at the same rate as fixed by the laws of the State of Nebraska for delinquent taxes. Provided, if one-half of such tax is paid on or before the same becomes delinquent, and the remaining one-half on or before the first day of June following, no interest shall be charged thereon. It shall be the duty of the city treasurer to proceed, as soon as practicable after the first day of January, to make such delinquent personal tax out of the personal property of such delinquent, if any such property can be found within the city, but it shall be the duty of every person owing municipal tax in the city to pay the same at the treasurer's office and no demand for the payment thereof shall be necessary. (Amendment of May 7, 1935).

Sec. 15. Funds Inviolable. Each and every fund created by this charter shall be strictly devoted to the purpose for which it was created and shall not be diverted therefrom, and any member of the city council voting so to divert the money in any fund shall be liable for the amount of funds so diverted; provided, any surplus remaining in any fund after all obligations against the same have been satisfied, which surplus is no longer required for the purpose for which such fund was created, may be transferred to the general fund by order of the council. (Amendment of March 3, 1959).

Sec. 16. Special Assessments, How Devoted. All moneys received from any special assessment shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose; provided, however, any surplus remaining in any such fund after all obligations against the same shall have been satisfied, may be transferred to any other fund by order of the council.

Sec. 17. Taxes, From What Property Collected. All municipal personal taxes shall be collected from the personal property of the person, partnership or corporation owning the same. All delinquent municipal taxes levied on any real estate within such city shall be collected by sale of such real estate in the same manner as in case of sale for delinquent county taxes.

Sec. 18. Ordinances Aiding Tax Collection. The city council shall have full power and authority to pass ordinances not inconsistent with the laws of this state which they may deem necessary to secure a speedy and thorough collection of all municipal taxes and special assessments.

Sec. 19. Taxes, How Paid. All municipal taxes and special assessments in the city shall be paid in cash, check, or electronic transfers. (Amendment of May 1, 2007).

Sec. 20. Lien of General Taxes. Taxes assessed upon personal property in the city shall be a lien upon the personal property of the person, partnership or corporation assessed from and after the time the tax books are received by the treasurer; such lien shall be prior and superior to all other liens thereon except liens for taxes. All municipal taxes assessed upon real estate shall be a lien upon such real estate from and including the first day of October in the year in which they are levied until the same are paid.

Sec. 21. Delinquent Real Estate Taxes, Advertisement, Sale. It shall be the duty of the city treasurer on or before the fifteenth day of September of each year, to make out a complete delinquent list of all lots, lands or parcels of real estate, the taxes and assessments on which for the previous year remain uncollected at that time, with the amount of such taxes or assessments, together with penalties and interest due from each lot or parcel of real estate set opposite the same arranging the several lots, lands or parcels of real estate in the order that they appear on the tax list, stating also in each case the purpose for which the tax or assessment was levied. The city treasurer shall thereupon deliver the same to the county treasurer who shall advertise the real estate therein described for sale for such delinquent taxes or assessments at the same time he advertises the sale of real estate for delinquent county taxes, by adding the amount of such delinquent city taxes and assessments to the amount of the delinquent state, county or other taxes, and he shall sell such lots, lands or parcels of real estate for the purpose of paying all such delinquent taxes or assessments, which shall be subject to the order of the city treasurer. In the sale of real estate as above provided and in the giving of certificates of sale and tax deeds therefor, the county treasurer shall proceed in the same manner as provided by law for proceeding in the sale of real estate for delinquent county taxes, and with like power and authority; and the real estate so sold may be redeemed within the time and upon the same terms and conditions as provided by law for the redemption of real estate sold for delinquent county taxes; provided, under this charter the county treasurer shall be authorized to collect only by sale of real estate; and provided further, it shall be the duty of the city treasurer upon any taxes being collected by him after the delinquent tax list shall have been delivered to the county treasurer, to forthwith notify the county treasurer of such collection, that the same may be cancelled on the delinquent tax list; provided, further, the failure, neglect or refusal of the city treasurer to make the tax assessed against any real estate by distress and sale of personal property of the owners thereof shall not in any wise affect or invalidate the sale of such lands for such tax.

Sec. 22. Lien of Special Assessments. Special assessments on real estate shall be a lien from the date of the levy, and interest on all unpaid installments shall be payable annually; such lien shall be perpetual and superior to all other liens upon the property except liens for general taxes or other special assessments equal therewith. In case of sale of any property for such tax or special assessment the same shall be governed by the general revenue law of Nebraska, except as herein otherwise provided, and the rights and limitations shall be the same as in other tax sales.

Sec. 23. Reassessments. The council shall have power in all cases where special assessments heretofore made or which may hereafter be made for any purpose have been or may be declared void or invalid, for want of jurisdiction in making or levying such special assessments or on account of any defect or irregularity in the manner of levying or equalizing the same, or for any cause whatever, to reassess and relevy a new assessment equal to the special benefits and not exceeding the cost of the improvement for which the assessment was made upon the property originally assessed and such reassessment and relevy shall be made substantially in the manner provided for making original assessments or like nature, and when so made shall constitute a lien upon the property prior and superior to all other liens except liens for taxes or other special assessments, and taxes so reassessed shall be enforced and collected as other special taxes; provided, in all cases under the provisions of this section the council before making any such reassessment or relevy shall give five (5) days' notice in a newspaper published and of general circulation in the city, of the time when the council will meet to determine the matter of reassessing or relevying all such special assessments; and in making such reassessments the council shall take into consideration payments, if any, made on behalf of the property reassessed, under such prior void assessment; and if such prior payments exceed the special assessment on the given property as finally determined, the excess, with lawful interest thereon, shall be refunded to the party paying the same.

Sec. 24. Idle Funds, Investment. Whenever the city has accumulated a surplus in any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the city council may invest any such surplus in excess of current needs

or such 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. (Amendment of November 7, 2000; prior Amendment of June 15, 1954).

Sec. 25. Formulation of Annual Budget. The procedure and calendar for the formulation of the annual proposed executive budget and for its submission to the council shall be as follows:

(1) On or before a date to be prescribed by the mayor, each city department and agency head shall compile and transmit to the finance director estimates for the ensuing year of revenue and operating expenditure for the department or agency concerned, along with such work program information and other supporting data as the mayor may require.

(2) The mayor, with the assistance of the finance director, shall review all estimates and the capital improvements program, and shall formulate the proposed budget, making such revisions of estimates as the mayor deems desirable.

(3) Not later than forty days prior to the end of the fiscal and budget year, the mayor shall submit to the council for its consideration and action his proposed budget. Upon submission the budget shall become a public record and shall be open to inspection.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of August 27, 1962; effective May 20, 1963). (Prior Sec. 25 repealed, effective May 20, 1963).

Sec. 25a. Annual Budget, Contents. The annual budget shall be a complete financial plan for the ensuing budget year and shall consist of an operating budget and a capital budget. The capital budget shall provide for the acquisition of real property; the acquisition, construction, reconstruction, improvement, extension, equipping, or furnishing of any capital improvement, but not routine maintenance work thereon; and equipment with a probable useful life of fifteen or more years. The operating budget shall provide for all classes of expenditures not provided for in the capital budget.

The proposed budget submitted by the mayor to the council shall contain at least the following:

(1) A budget message in which the mayor shall discuss the city's financial condition and prospects, explain both in terms of money and work programs the important features of the operating budget, and outline the financial policies he proposes for the ensuing budget year.

(2) Appropriate statements showing for each fund the estimated transaction and balances for the ensuing budget year and comparative data for the current year and the immediate past budget year.

(3) Schedules of all estimated revenues itemized by sources for the ensuing budget year and comparative data for the current and the immediately past budget year.

(4) Operating budget schedules showing by activity or program the proposed operating expenditures for the ensuing budget year, and in a separate column or section entitled "Proposed Appropriations," the lump sum recommended for appropriation, which lump sums need not be itemized further than by departments, divisions, or major activities and programs. Comparative expenditures data for the current year and the immediately past budget year and information on work programs and work loads shall also be presented.

(5) A schedule or schedules showing principal and interest requirements for the ensuing budget year and for at least five years thereafter on each outstanding note and bond issue comprising the city debt.

(6) Capital budget schedules showing the total amount proposed for expenditure on each capital improvement project during the ensuing budget year and a complete analysis of the sources of funds by projects showing balances available and amounts to be appropriated, borrowed, or derived from other sources.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 26. Annual Budget, Adoption. At the meeting of the council at which the mayor submits the proposed budget, the council shall determine the time and place at which it will hold a public hearing on the proposed budget. The date for a public hearing shall be scheduled for not later than ten days prior to the budget adoption date prescribed in this section, and the time and place of the hearing, together with a copy of a summary of the proposed budget, shall, not less than five days before such hearing, be published in one issue of the official paper of the city, if there be one, and if there be no official paper, then in one newspaper published and of general circulation in the city.

The council shall have full power at any time prior to the adoption of the budget to revise revenue estimates and to increase, decrease, insert, or delete appropriation items.

Not later than five days prior to the end of the fiscal and budget year, the council shall by a vote of four of its members adopt a budget by resolution and thereby authorize appropriations for the ensuing budget year. Should the council fail to adopt a budget on or before the prescribed budget adoption date, the budget proposed by the mayor shall be deemed to have been adopted by the council and shall become the basis for expenditure during the ensuing budget year and for the tax levy for such ensuing year.

Not more than ninety percent of the total levy for any fiscal year shall be included in the budget revenue estimates for such year, but each annual budget shall be balanced in that total estimated revenues, including applicable borrowing proceeds, shall be equal in amount to total appropriations.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 26a. Biennial (Two-Year) Budget. The City may by ordinance establish a process for the adoption of a balanced biennial budget for biennial periods, which biennial periods shall consist of two fiscal and budget years commencing in odd-numbered years or even-numbered years, notwithstanding any existing provisions of this charter referencing an annual budget. The biennial period shall begin on the first day of September and shall end on the last day of August unless the council by ordinance establishes a different biennial period. Each biennial budget shall be balanced.

The ordinance shall include, but not necessarily be limited to, the procedure and calendar for the formulation of the biennial budget, its contents, the procedure and calendar for the formulation of the biennial capital improvement program budget, the procedure for the presentation to the council including the time and place at which the council will hold a public hearing on the proposed biennial budget, the procedure for the transfer and reduction of funds and authorization of emergency appropriations, and the manner in which the property tax rate will be determined for the second year of the biennial period.

The mayor shall have the power and shall be required to submit to the council for its consideration a recommended biennial operating and capital improvement program budget. The mayor shall submit the recommended biennial budget no later than forty days prior to the beginning of the biennial period. Amendments provided by the mayor to the recommended biennial budget no later than forty days prior to the beginning of the biennial period shall be considered part of the mayor's recommended budget as if they were part of the original submission to the city council. The council shall have full power at any time prior to the adoption of the biennial budget to revise revenue estimates and to increase or decrease appropriations of departments or divisions or capital improvement program projects. No later than five days prior to the beginning of the biennial period the council shall, by a vote of four of its members, adopt the biennial budget by resolution and thereafter authorize appropriations for the ensuing biennial period. Any legislation pertaining to the biennial budget shall be subject to the power provided in Article IV, Section 13 of this charter. Should the council fail to adopt the biennial budget on or before the prescribed adoption date, the biennial budget proposed and submitted by the mayor shall be deemed to have been adopted by the council and shall become the basis for expenditure during the ensuing biennial budget period and for the property tax rates for the ensuing biennial period.

After a biennial budget is adopted, neither the mayor nor the council can adopt a new annual budget in the second year of the biennial period. The power to amend or revise the biennial budget shall be as provided in Article IX, Section 27 of this charter. (Amendment of November 2, 2010).

Sec. 27. Appropriations. The finance director shall not allow any commitments or expenditures to be made except as charges against appropriation authorized in the budget or pursuant to Article VII, Section 7. If, at any time, during the budget year, the mayor determines that the available income for the year of any specific fund will be less than the total appropriations authorized from such fund, he shall have the power to reduce appropriations from such fund so as to prevent the incurring of a budget deficit for that year.

The mayor may at any time authorize the transfer of an unencumbered appropriation balance or portion thereof between appropriations of the same department or agency, but he shall inform the council of all such transfers by filing an appropriate written statement with the city clerk within seven days. Appropriation transfers between departments or agencies may only be authorized by resolution of the council.

The council shall not make any appropriation in addition to those authorized in the annual budget, except that it may authorize emergency appropriations in the event of an emergency threatening serious loss of life, health, or property in the community. If there are no unappropriated moneys available from which to make such appropriations, the council may by resolution authorize the issuance of emergency notes, provided that the emergency notes issued shall not exceed fifteen percent of the total appropriations made in the operating budget for the year concerned, and provided further that the first budget adopted after the issuance of such emergency notes shall provide for their redemption in full. The affirmative vote of six members of the council or a unanimous vote, if fewer than six but at least four members are present, shall be required to pass resolutions authorizing emergency appropriations or the issuance of emergency notes.

Unencumbered balances of operating appropriations shall lapse at the end of the budget year for which authorized. Capital appropriations shall be continuing appropriations, but the council may by ordinance transfer at any time the unencumbered balances of such capital appropriations to other capital appropriations or to an appropriate fund.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 28. Payments. The finance director shall be responsible for the payment of approved claims. Any payment made by check or warrant shall be signed by the mayor and countersigned by the finance director. The use of facsimile signatures on checks or warrants is hereby authorized. Any warrant not paid upon presentation by reason of lack of funds shall be registered and shall draw interest at a rate not to exceed five percent per year from date of registration. (Amendment of May 1, 2007: prior Amendment of November 5, 1996: March 3, 1959).

Sec. 29. Accounting Systems. The finance director shall have the responsibility and authority under the mayor for prescribing accounting systems for all departments and agencies of the city government; for prescribing rules governing the selection, use and location of accounting equipment and machinery; and for prohibiting any department or agency from keeping accounts which the finance director deems to be an unnecessary duplication of the accounts maintained in the Finance Department or elsewhere. Such books and accounts shall at all times be subject to examination by members of the council and by such other persons as they may designate during business hours.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 30. Finance Director Report to Council. The finance director shall report to the council annually, and at such other times as may be required by the council, a full and detailed account of the city's financial condition and of all receipts and disbursements during the year or other period concerned. The finance director shall be responsible for the keeping of a register or other appropriate record of all payments made. Such register or record shall show the date, amount, and number of each payment made and the payee name to whom paid. Such register or record shall be kept subject to examination by the council at any time. (Amendment of May 1, 2007: prior Amendment of March 3, 1959).

Sec. 31. Separate Funds, Private Use Forbidden. The city treasurer shall keep all money belonging to the city in such separate funds as may be created by this charter or ordered by the council. The city treasurer is hereby expressly prohibited from using either directly or indirectly city money or checks or warrants or securities for his or her own use and benefit or that of any other person. (Amendment of May 1, 2007).

Sec. 35. Claims and Accounts, Approval. All claims and accounts payable against the city other than a tort claim as defined by state law shall be presented in writing and shall fully and accurately identify the items or services for which payment is claimed. The finance director shall be responsible for the pre-auditing and approval of all claims and accounts payable, and no check or warrant in payment of any claim or account payable shall be drawn or paid without such approval. Publication of claims shall be accomplished in accordance with the laws of the state of Nebraska. (Amendment of May 1, 2007; prior Amendment of May 15, 1984; effective July 15, 1984).

Sec. 36. Claims, Appeal. Any taxpayer of the city, after the allowance in whole or in part of any claim required to be published, or the claimant, after the disallowance in whole or in part of any such claim, may appeal therefrom in accordance with the statutory procedures provided for such appeals. (Amendment of May 15, 1984; effective July 15, 1984).

Sec. 37. Unliquidated Claims, Filing. (Repealed, May 15, 1984; effective July 15, 1984).

Sec. 38. Defective Public Ways, Notice Essential. The city shall be absolutely exempt from liability for damages or injuries suffered or sustained by reason of defective public ways or the sidewalks thereof within the city, unless actual notice in writing of such defect shall have been filed with the city clerk at least five days before the occurrence of such injury or damage, which notice shall describe with particularity the place and nature of the defects of which complaint is made.

Sec. 39. General Obligation Bonds and Notes. In this charter the term "note" shall mean "a written evidence of indebtedness maturing not later than two years after the date of its issuance," and the term "bond" shall mean "a written evidence of indebtedness maturing later than two years after the date of issuance."

The city shall have the power to issue general obligation notes to temporarily provide cash to pay operating expenses authorized in the budget; to meet expenses arising from an emergency threatening serious loss of life, health, or property when it is determined by resolution that such an emergency exists; and to pay for improvements and items ultimately to be financed from the proceeds of bonds that have been authorized pursuant to this charter.

The city shall have the power to issue general obligation bonds only for the purpose of acquiring real property; for acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing any capital improvement which the city has the power to acquire, construct, reconstruct, extend, equip, improve, or operate under this charter, including improvements, the cost of which is to be assessed against property; for providing working capital for the special improvement fund established in Article VIII, Section 10a of this charter; or for refunding outstanding indebtedness.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary, but this section shall not in any way govern, impair, or restrict the issuance of bonds authorized by the electors of the city prior to the effective date of this section. (Amendment of March 3, 1959).

Sec. 40. Same, Authorization. No general obligation bonds of the city, except refunding bonds, bonds to provide working capital for the special improvement fund, and bonds to finance improvements the cost of which is to be assessed against property, shall be issued until authorized by a majority of the electors

voting on the question as to their issuance. Bond authorization questions shall be submitted to the electors by the council of its own motion or in accordance with the initiative procedure in cases where a sufficient initiative petition is filed, and each such question shall relate to not more than one subject and shall specify the purpose for which moneys are to be borrowed, and the maximum amount of bonds to be issued for that purpose.

With respect to bond issues authorized by a vote of the electors, all such authorization shall expire six years after the date of the authorizing vote if such bonds are still unissued at that time, but should the council, before such six-year period has elapsed, determine that any portion of an authorized bond issue is not required for the accomplishment of the objectives in connection therewith, it may by ordinance cancel the unneeded portion of such authorization, provided that the bonds comprising the cancelled portion are still unissued.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. Any general obligation bonds previously approved by a majority of the electors in accordance with the above, but which have not as yet been issued, shall not be subject to any interest limitations that might have been specified in the proposition voted upon. (Amendment of April 7, 1981; effective June 6, 1981; amendment of March 3, 1959).

Sec. 41. Same, Debt Limitation. Debt limits relating to the various types of general obligation notes which the city is authorized to issue shall be as follows:

(1) Notes issued in anticipation of the receipt of revenues of any fund shall not exceed twenty-five percent of the revenues officially estimated to be collected for that fund during the remainder of the fiscal year concerned.

(2) Notes issued to meet expenses arising from an emergency shall not exceed fifteen percent of the total appropriations made in the operating budget for the fiscal year concerned.

(3) Notes issued in anticipation of the sale of bonds previously authorized shall not exceed ninety percent of the principal amount of such bonds.

The provisions of this section shall govern and apply notwithstanding any provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 42. Same, Term Limitation. Limitations on the term of the various types of general obligation debt instruments which the city is authorized to issue shall be as follows:

(1) The term of any general obligation bond issue shall not exceed the estimated life of the property or improvement to be acquired from the proceeds thereof, said estimated life to be determined by the council, and no general obligation bonds of any type shall mature later than thirty years after the date of issuance thereof.

(2) Notes issued in anticipation of the receipt of revenues of any fund shall mature within the same fiscal year in which issued.

(3) Notes issued to meet expenses arising from an emergency shall mature within one year, and an appropriation sufficient to pay off such notes shall be included in the first budget adopted after the issuance of such notes, except in cases where an alternative means of paying off such notes is found in advance of the date on which such budget is adopted.

(4) Notes issued in anticipation of the sale of bonds previously authorized shall mature within two years.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 43. General Obligation Bonds; Form, Sale, Issuance, Etc. General provisions relating to the form, sale, issuance, interest rates, and other matters concerning general obligation bonds shall be as follows:

(1) The form, denomination, and other features of such bond issues shall be as prescribed by the council in the ordinance pertaining to the issuance of such bonds. The finance director shall be responsible

for the sale and issuance of such bonds, for their delivery, for promptly and properly depositing the proceeds therefrom, and for other ministerial acts relating to such bonds.

(2) The provisions of Section 40 of this article requiring a separate vote of the electors on each purpose for which moneys are to be borrowed shall not be construed as preventing the sale and issuance of single general obligation bond issues for multiple purposes, provided that each such purpose has been authorized by the necessary separate vote. The purpose or purposes of each bond issue shall be stated on the bond, and the proceeds received from the sale thereof shall not be used for any other purpose or purposes.

(3) Bond maturities shall be scheduled so as to require substantially equal annual or semi-annual principal installments or substantially equal annual or semi-annual installments covering both principal and interest, and installments on any issue shall commence not later than two years after the date of issuance. Interest shall be payable annually or semi-annually.

(4) Bonds shall be sold for such price as shall be determined by the city council.

(5) Bonds may contain such provisions for call in advance of maturity as the council may prescribe in the bond ordinance concerned but all premiums, if any, shall not exceed four percent.

(6) The council may provide in the bond ordinance concerned for the registration of such bonds as to principal only, or as to both principal and interest.

(7) Such bonds shall be signed by the mayor and countersigned by the finance director. Signatures upon such bonds and coupons shall be in such form as the council may prescribe in the bond ordinance concerned. All required signatures may be affixed as facsimile signatures. The use on bonds and coupons of a printed facsimile of the city seal is also authorized.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary, but this section shall not in any way govern, impair, or restrict the issuance of bonds authorized by the electors of the city prior to the effective date of this section. (Amendment of November 5, 1996; Amendment of November 6, 1990; Amendment of March 3, 1959).

Sec. 44. Revenue Bonds. The city shall have the power to issue revenue bonds for the purpose of acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing any revenue-producing facility within or without the city that the city has power to acquire, construct, reconstruct, extend, equip, improve, or operate under this charter and for the purpose of refunding any such bonds.

General provisions relating to the form, sale, issuance, and other matters concerning revenue bonds shall be as follows:

(1) The form, denominations, and other features of such bond issues shall be as prescribed by the council in the ordinance authorizing the issuance of such bonds. The Finance Director shall be responsible for the sale and issuance of such bonds, for their delivery, for promptly and properly depositing the proceeds therefrom, and for other ministerial acts relating to bonds.

(2) Revenue bonds shall be issued for such terms as the ordinance authorizing them shall prescribe but shall not mature later than fifty years after the date of issuance thereof.

(3) Revenue bonds shall be sold for such price, and bear interest at such rate or rates payable at such time or times within or without the state as shall be determined by the City Council.

(4) Any ordinance authorizing revenue bonds may contain such covenants and provisions to protect and safeguard the security of the holders of such bonds as shall be deemed necessary to assure the prompt payment of the principal thereof and the interest thereon. Such covenants and provisions may establish or provide for, but shall not be limited to, the payment of interest on such bonds from the proceeds thereof for such period as the council deems advisable, the creation of reserve funds from bond proceeds, revenues of the facility for which the bonds were issued or other available monies, the creation of trust funds, and the appointment of trustees for the purpose of receiving and disbursing bond proceeds or the collection and disbursement of revenues from the facility for which the bonds were issued; the limitations or conditions upon the issuance of additional bonds payable from the revenues of the facility for which the bonds were issued; the operation, maintenance, management, accounting and auditing procedures to be followed in the operation of the facility; and the conditions under which any trustee or bondholders' committee shall be

entitled to the appointment of a receiver to take possession of the facility, to manage it, and receive and apply revenues from the facility.

(5) The provisions of this section and any ordinances authorizing the issuance of revenue bonds pursuant to this section shall constitute a contract of the city with every holder of said bonds and shall be enforceable by any bondholder by mandamus or other appropriate action at law or in equity in any court of competent jurisdiction.

(6) Bonds issued pursuant to this section or notes issued pending permanent revenue bond financing shall not be a debt of the city within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the city, and the city shall not be liable for the payment thereof out of any monies of the city other than the revenues pledged to the payment thereof, and all bonds or notes issued pursuant to this section shall contain a recital to that effect. The holders of all revenue bonds or notes shall have a lien on the revenues of the project with respect to which they are issued subject to conditions provided in the ordinance authorizing the issuance of such bonds or notes.

(7) Whenever the council shall have issued any revenue bonds or notes, it shall establish, maintain, revise and collect charges and rates throughout the life of the bonds at least sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal and replacement of the facility for which the bonds were issued, the payment of the principal and interest on all indebtedness incurred with respect thereto and to provide adequate reserves therefor, to maintain such coverage for the payment of such indebtedness as the council may deem advisable, to maintain such other reserves as provided in the ordinances authorizing the issuance of such bonds and to carry out the provisions of such ordinances.

(8) Such bonds shall be signed by the mayor and countersigned by the finance director. Signatures upon such bonds and coupons shall be in such form as the council may prescribe in the bond ordinance concerned. All required signatures may be affixed as facsimile signatures. The use on bonds and coupons of a printed facsimile of the city seal is also authorized.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary, but this section shall not in any way govern, impair or restrict the issuance of revenue bonds authorized by the city prior to the effective date of this section.

Unless authorized by the majority of the voters of the city voting upon the question, no revenue bonds shall be issued for the purpose of engaging in public transportation, natural gas distribution, or telephone fields or functions. (Amendment of November 6, 1990: prior amendment of September 9, 1974, effective November 18, 1974).

ARTICLE IX-A

MERIT SYSTEM

Sec. 1. Classes of Service. The selection, promotion, and retention of personnel in all departments of the city government shall be based solely upon the merit and fitness of the applicants or employees involved. All regularly paid employees in the city service shall be included in either the unclassified or classified services. The unclassified service shall consist of:

- (1) All officers elected by the people.
- (2) The directors or heads of all departments established pursuant to this charter.
- (3) Members of boards or commissions.
- (4) All probationary or temporary employees.
- (5) Administrative assistants to elected officials.
- (6) Persons employed on an individualized contract basis.

The council may by ordinance provide for the transfer to the classified service of the employees of any agencies which now, or in the future, spend money appropriated or borrowed by the council or city, or over which the council exercises budget control.

The classified service shall consist of positions not specifically included in the unclassified service. All personnel actions relating to positions in the classified service shall be consistent with the provisions of

this article and subject to the supervision and control of the personnel department established in this article, and no employees in the classified service shall be discharged, suspended, or demoted except for just cause.

The provisions of this section shall apply and govern notwithstanding any existing provisions of this charter to the contrary. (Amendment of May 15, 1984; effective July 15, 1984).

Sec. 2. Personnel Department. There is hereby created a personnel department consisting of a personnel board, a personnel director, and such subordinate employees as are required to administer the personnel program prescribed in this article. (Amendment of March 3, 1959).

Sec. 3. Personnel Board. There shall be a personnel board comprised of five members who shall be appointed by the mayor and confirmed by the council. The first appointees shall be appointed for terms of one, two, three, four, and five years, respectively. Thereafter all appointments shall be for five-year terms. Vacancies in an unexpired term shall be filled by the mayor by appointment for the remainder of the term, and such appointments shall require the council's conformation.

Members shall be appointed from among persons having the qualifications established in article III, section 4, and one member shall be a city employee but no other officer or employee of the city shall be eligible for appointment to this board. A member of the board may be removed by the affirmative vote of four members of the council after being given a written statement of the charges against him and a hearing which shall be a public hearing if he so requests.

The board shall annually elect its chairman and such other officers as it desires from among its members and shall establish its own rules of procedure, provided that three members shall constitute a quorum for the transaction of business and three affirmative votes shall be required for final action on any matter acted upon by the board.

The board shall have power and shall be required to:

(1) Advise the mayor, council, and personnel director on matters concerning personnel administration, including training programs and the fostering of interest by educational institutions and civic, professional, and employee organizations in the improvement of the city service.

(2) Review the personnel rules and regulations and amendments thereto developed and recommended by the personnel director; conduct hearings thereon, approve or reject such rules in whole or in part and with or without modifications; and transmit such rules with recommendations to the council for its consideration and legislative action.

(3) Hear appeals by any employee in the classified service from a decision by the appointing authority with respect to discharge, suspension, or a reduction in classification or pay; and report in writing to the appealing employee and the appointing authority its findings and decisions, which decision shall be binding upon the appointing authority.

(4) Make any investigation which it may consider desirable concerning personnel administration in the city service and report to the mayor and council its findings, conclusions, and recommendations.

(5) Perform such other related duties as may be necessary to fulfill its responsibilities under this charter or as may be assigned by the mayor or council.

The personnel board, for purposes of conducting any hearing or investigation authorized by this article, shall have the power to administer oaths, subpoena witnesses and compel the production of pertinent books and records. Any person who shall fail to appear in response to subpoena, shall fail to answer any question or produce any books or records pertinent to any such hearing or investigation, or shall knowingly give false testimony therein shall be guilty of a misdemeanor and shall be subject to such penalties as may be fixed by an ordinance, which the council is hereby authorized to pass, and such other penalties as may be provided by law.

Members of the board shall serve without pay. (Amendment of March 3, 1959).

Sec. 4. Personnel Director. The personnel director shall be the secretary of the Personnel Board and the administrative head of the personnel department. He shall be responsible for the proper conduct of all administrative affairs of the department and for the execution of the personnel program prescribed in this charter and in ordinances consistent therewith. (Amendment of March 3, 1959).

Sec. 5. Rules and Regulations. As soon as practicable after the appointment of the first Personnel Board and personnel director under this article, the director shall prepare and submit to the board a set of rules and regulations to carry out the provisions of this article. The board shall expeditiously consider these rules as provided in section 3 of this article and shall transmit them to the council for its consideration and legislative action. The personnel rules and regulation shall, among other things, provide for:

- (1) The methods of publicizing, holding, and grading competitive examinations.
- (2) The establishment, maintenance, consolidation, and cancellation of eligible lists and the methods of certifying eligibles for appointment.
- (3) The administration of position classification and pay plans and the methods of awarding pay increases and promotions based on merit and seniority.
- (4) Temporary appointments. Probationary periods of employment, which shall not exceed six months.
- (5) Hours of work, vacation and sick leaves, other leaves of absence, and overtime pay.
- (6) The manner in which lay-offs and reductions in force shall be affected and the reemployment rights of employees so released.
- (7) The manner in which disciplinary actions may be taken and the penalties permitted for specific causes.
- (8) The manner in which employee appeals shall be made and heard.
- (9) The procedures and assignments of responsibility for bringing charges and taking other necessary actions in connection with violations of section 8 of this article.

These rules and regulations shall have the force and effect of law when enacted as an ordinance by the council, and all amendments thereto shall be made in the same manner as is prescribed herein for the adoption of the first set of personnel rules and regulations. (Amendment of May 9, 1978; effective date July 9, 1978).

Sec. 6. Plan of Duties of Position. The personnel director shall prepare and maintain a current record of the duties and responsibilities of each position in the classified service. As soon as practicable after the appointment of the first personnel director under this article, he shall prepare and submit to the personnel board a plan classifying and grading all such positions on the basis of assigned duties and responsibilities. The personnel board shall review and approve such plan, with or without amendments. After adoption of the plan, the director shall allocate each position to its appropriate class. Affected employees shall be given the opportunity to request a review and hearing on the allocations so made, and the allocations shall be subject to the approval of the personnel board. The plan, once adopted, shall be maintained on a current basis by the director so that it will reflect changes in the duties and responsibilities of existing positions and classes and so that needed new classes are established and obsolete classes are abolished. The plan shall serve as the basis for the pay plan, examination and training programs, examination and training progress, and other personnel actions. Amendments to the plan shall be made in the same manner as is provided herein for the original adoption of the plan.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 7. Salary Schedule. The personnel director shall be responsible for developing a recommended pay plan and for periodically reviewing that plan, which shall cover all positions in the classified service and shall be based upon the principle of equal pay for equal work. The plan shall prescribe the manner of its administration, including the methods of fixing individual pay rates and of rewarding pay increases within

established ranges. The plan shall also, as necessary, reflect those negotiated pay rates included in collective bargaining agreements which have been approved by the city council.

As soon as practicable after the appointment of the first personnel director under this article, the personnel director shall prepare a recommended pay plan and, except for those portions of the pay plan reflecting pay rates included in collective bargaining agreements approved by the city council, shall submit it to the Personnel Board for its consideration and approval. When approved by the Personnel Board, with or without amendments, the plan shall be submitted to the mayor, who in turn shall submit it along with his comments to the council. The plan, including portions reflecting pay rates included in collective bargaining agreements approved by the city council, shall become effective when adopted as an ordinance by the council. Amendments to the plan shall be made in the same manner as is prescribed herein for the original adoption of the plan.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of May 7, 1985; effective July 6, 1985).

Sec. 8. No Discrimination, Political Activities. No action affecting the employment status of an employee or applicant for a position in the city service, including appointment, promotion, demotion, suspension, or removal, shall be taken or withheld by reason of the race, creed, color, or political opinions or affiliation of the affected person, except that no person shall be employed or retained in the city service who advocates or belongs to an organization that advocates the overthrow or change of our government by force or violence.

No person in the city service, except elected officials, and members of election boards and unpaid advisory boards and commissions, shall engage in the following activities in connection with any city issue to be voted upon or any candidate to be nominated for, or elected to, any city office:

(1) Manage a campaign or be a member of a campaign committee for a candidate for nomination for or election to city office or for or against any city issue; provided, however, nothing herein shall prevent the dissemination of facts or information relating to a city issue by persons in the city service acting in their official capacity.

(2) Circulate petitions for candidates for city office, although an employee may sign such a petition;

(3) Wear campaign buttons or similar emblems, or distribute campaign literature, at work or in a city uniform or in the offices or buildings of the City of Lincoln.

In elections other than city elections, an employee of the city may not wear campaign buttons or distribute campaign literature while wearing a city uniform.

Nothing herein shall be construed as preventing or prohibiting such persons in the city service from exercising their rights as citizens to publicly or privately express their opinions or to cast their votes.

No person seeking appointment to, or promotion in, the city service shall give, render, or pay any money, service, or other valuable thing to any person in connection with his test, appointment, or promotion.

Any person who willfully or corruptly violates any of the provisions of this section shall be subject to dismissal and such other punishment as may be provided by law. (Amendment of May 15, 1984; effective July 15, 1984).

Sec. 8a. Employee Becoming a Candidate for City Office. Any person in the city service, except elected officials and members of election boards and unpaid advisory boards and commissions, who seeks nomination or who becomes a candidate for any elective city office shall be required to take a leave of absence, which shall be an unpaid leave in accordance with the rules governing leaves of absence, (unless such person chooses to utilize accrued vacation leave), which leave shall commence at least sixty days prior to the date of the election or from the date of filing for office, whichever is lesser. Election or appointment of a person in the city service to an elective city office shall constitute an automatic resignation of such person from his or her position in the city service. No individual shall hold both an elective city office and a paid position in the city service. (Amendment of May 15, 1984; effective July 15, 1984).

Sec. 9. Power of Personnel Board. All powers, duties and rights of the personnel board or the personnel director under this article shall be provided in this article, notwithstanding any existing provisions of this charter to the contrary. (Amendment of August 27, 1962; effective May 20, 1963).

ARTICLE IX-B

CITY PLANNING DEPARTMENT

Sec. 1. Planning Department Created. There is hereby created a planning department, which shall consist of a city planning commission, a planning director, and such subordinate employees as are required to administer the planning program prescribed in this article. (Amendment of March 3, 1959).

Sec. 2. City Planning Commission. There shall be a city planning commission comprised of nine members who shall be appointed by the mayor and confirmed by the council. Three of the first appointees shall be appointed for two-year terms, three shall be appointed for four-year terms, and three shall be appointed for six-year terms. Thereafter all appointments shall be for six-year terms. Vacancies in an unexpired term shall be filled by the mayor by appointment for the remainder of the term, and such appointments shall require the council's confirmation.

Members shall be appointed from among persons having the qualifications established in Article III, section 4. A member of the commission may be removed by the affirmative vote of four members of the council after being given a written statement of the charges against him and a hearing, which shall be a public hearing if he so requests.

The commission shall biennially elect its chairman and such other officers as it desires from among its members and shall establish its own rules of procedure, provided that five members shall constitute a quorum for the transaction of business and five affirmative votes shall be required for final action on any matter acted upon by the commission.

The commission's powers and duties shall extend to advising the mayor, council, and planning director on all matters concerning the planning program and the performance of those acts related to the comprehensive plan, the capital improvements program, the zoning ordinance, and the land subdivision regulations that are described in subsequent sections of this article.

Members of the commission shall serve without pay. (Amendment of March 3, 1959).

Sec. 3. Planning Director. The planning director shall have had at least five years of such experience in the city planning field as shall qualify him for duties of the office.

The planning director shall serve as the secretary of the city planning commission and as the administrative head of the planning department. He shall be responsible for the proper conduct of all administrative affairs of the department and for the execution of the planning program prescribed in this article and in ordinances and resolutions consistent therewith. (Amendment of March 3, 1959).

Sec. 4. Comprehensive Plan. The general plan for the improvement and development of the city shall be known as the "comprehensive plan." The comprehensive plan, with the accompanying maps, plats, charts and explanatory materials, shall show the recommendations concerning the physical development pattern of the city and of any land outside its boundaries related thereto. The comprehensive plan shall, among other things, show:

- (1) The general location, character, and extent of existing and proposed streets and highways and railroads, air, and other transportation routes and terminals.
- (2) Existing and proposed public ways, parks, grounds, and open spaces.
- (3) The general location, character, and extent of schools, school grounds, and other educational facilities and properties.
- (4) The general location and extent of existing and proposed public utility installations.

- (5) The general location and extent of urban renewal projects.
- (6) The general location of existing and proposed public buildings, structures, and facilities.

The comprehensive plan shall include a land-use plan showing the proposed general distribution and general location of business and industry, residential areas, utilities, and recreational, educational, and other categories of public and private land uses. The land-use plan shall also show recommended standards of population density and building intensity based upon population estimates and providing for activities for which space should be supplied within the area covered by the plan. The comprehensive plan shall include and show proposals for acquisition, extension, widening, narrowing, removal, vacation, abandonment, sale, and other actions affecting public improvements. (Amendment of March 3, 1959).

Sec. 5. Planning Director, Duties. The planning director shall be responsible for preparing the comprehensive plan and amendments and extensions thereto, and for submitting such plans and modifications to the city planning commission for its consideration and action. The commission shall review such plans and modifications, and those which the city council may suggest, and, after holding at least one public hearing on each proposed action, shall provide its recommendations to the city council within a reasonable period of time. The city council shall review the recommendations of the planning commission and after at least one public hearing on each proposed action, shall adopt or reject such plans as submitted, except that the city council may, by an affirmative vote of at least five members of the city council, adopt a plan or amendments to the proposed plan different from that recommended by the planning commission. (Amendment of May 6, 1975).

Sec. 6. Council Refer Matters to Planning Department. No ordinance, or resolution, which deals with the acquisition, extension, widening, narrowing, removal, vacation, abandonment, sale or other change relating to any public way, transportation route, ground, open space, building or structure, or other public improvement of a character included in the comprehensive plan, shall be adopted by the council until such ordinance or resolution shall first have been referred to the Planning Department and that department has reported regarding conformity of the proposed action to the comprehensive plan. The department's report shall specify the character and degree of conformity or nonconformity of each such proposed action to the comprehensive plan, and a report in writing thereon shall be rendered to the council within thirty days after the date of receipt of the referral unless a longer period is granted by the council. If the department fails to render any such report within the allotted time, the approval of the department may be presumed by the council. (Amendment of March 3, 1959).

Sec. 7. Capital Improvements. Each department or agency annually, on or before a date which the mayor shall establish, shall submit to the planning director a schedule of all capital improvements which it recommends to be undertaken in any of the six succeeding fiscal years.

The term "capital improvements" shall include the acquisition of real property; the acquisition, construction, reconstruction, improvement, extension, equipping, or furnishing of any physical improvement, but not routine maintenance work thereon; and equipment with a probable useful life of fifteen or more years.

The planning director shall examine each recommended project for conformity to the comprehensive plan and shall prepare a consolidated schedule of the projects recommended by the departments, which schedule shall describe the character and degree of conformity or non-conformity of each project as it relates to the comprehensive plan. This consolidated schedule shall be submitted to the city planning commission for its review and comment. Not later than seventy-five days prior to the budget adoption date, the commission shall submit the consolidated schedule of projects and its comments thereon to a capital improvements advisory committee composed of the mayor as chairman, and such directors as designated by the mayor. The capital improvements advisory committee shall formulate and recommend a six-year improvement program showing exactly which projects should receive appropriations in each of the six succeeding fiscal years. As a part of his annual proposed budget, the mayor shall, after consideration of the recommended capital improvements program, submit to the council his recommendations with respect to the capital budget for the ensuing year.

The council shall not appropriate any money in any budget for any capital improvement project unless and until the conformity or non-conformity of that project has been reported on by the planning department by special report or in connection with the capital improvement programming process. (Amendment of May 10, 1966).

Sec. 8. Zoning Plan and Ordinance. For the purpose of promoting the health, safety, morals, or general welfare of the city, the council shall enact a zoning plan and zoning ordinance to regulate and restrict the location, height, bulk, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the locations and uses of buildings, structures, and land for trade, industry, business, residences, and other purposes.

The zoning plan and zoning ordinance may divide the area zoned into districts of such number, shape, and area as may be best suited to carry out the purposes of this article, and it may regulate, restrict, or prohibit the erection, construction, reconstruction, alteration or use of buildings, structures, or land within the total area zoned or within districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations for one district may differ from those applicable to other districts.

Such regulations shall be made with reasonable consideration having been given to, among other things, the character of the various parts of the area zoned and their peculiar suitability for particular uses and types of development, and with a view to conserving property values and encouraging the most appropriate use of land throughout the area zoned.

The regulations may include reasonable provisions regarding non-conforming uses and their gradual elimination.

The council shall have the power to regulate through zoning the use of land outside the city within such distances and in the manner authorized by the laws of the state of Nebraska.

The provisions of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of March 3, 1959).

Sec. 9. Zoning Ordinance Preparation. The planning director shall be responsible for preparing the zoning ordinance and for submitting it to the city planning commission for its consideration and action. The commission shall review the proposed zoning ordinance and, after holding at least one public hearing on each proposed action, shall approve or reject it in whole or in part and with or without modifications. When approved by the commission, the proposed ordinance shall be submitted to the council for its consideration, and the zoning ordinance shall become effective when adopted by the council. The city council may amend, supplement, or otherwise modify the zoning ordinance. Any such proposed amendment, supplement, or modification shall first be submitted to the planning commission for its recommendations and report. The planning commission shall hold at least one public hearing with relation thereto, before submitting its recommendations and report. After the recommendation and report of the planning commission have been filed, the city council shall, before enacting any proposed amendment, supplement, or modification, hold a public hearing in relation thereto. Notice of the time and place of hearings above referred to shall be given as provided by law. (Amendment of March 3, 1959).

Sec. 10. Board of Zoning Appeals. There is hereby created a board of zoning appeals comprised of five members who shall be appointed by the mayor and confirmed by the council. The first appointees shall be appointed for terms of one, two, three, four and five years, respectively. Thereafter all appointments shall be for five-year terms. Vacancies in an unexpired term shall be filled by the mayor by appointment for the remainder of the term, and such appointments shall require the council's confirmation.

Members shall be appointed from among persons having the qualifications established in Article III, section 4. A member of the board may be removed by the affirmative vote of four members of the council after being given a written statement of the charges against him and a hearing, which shall be a public hearing if he so requests.

The board shall annually elect its chairman and such other officers as it desires from among its members and shall establish its own rules of procedure, provided that three members shall constitute a

quorum for the transaction of business and three affirmative votes shall be required for final action on any matter acted upon by the board.

The board shall have power and shall be required:

(1) To hear and decide upon appeals from any decision or order of the building inspector or other officers charged with the enforcement of the zoning ordinance in those cases where it is alleged that such decision or order is in error.

(2) To hear and decide upon petitions for variances and, subject to such standards, principles, and procedures as the council may provide in the zoning ordinance, to vary the strict application of the height, area, parking, or density requirements to the extent necessary to permit the owner a reasonable use of his land in those specified instances where there are peculiar, exceptional, and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.

(3) To hear and decide upon such other cases and matters concerning zoning exceptions as are referred to it by the zoning ordinance.

Before making a decision upon appeals and petitions of the types described under (1) and (2) above, the board shall hold at least one public hearing on each such appeal or petition. The decision of the board of zoning appeals, accompanied by the written findings, shall be transmitted to the city clerk by the board within one week after the decision has been made.

Members of the board of zoning appeals shall serve without pay. (Amendment of May 10, 1966).

Sec. 11. Platting and Land Subdivision. The planning department shall be responsible for the administration of platting and the regulation of land subdivision in the city in accordance with subdivision regulations adopted by the council. The city shall also regulate land subdivision outside the city within distances and in the manner authorized by the laws of the state of Nebraska.

"Subdivision" shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development.

The council, upon recommendation of the planning department, shall adopt as an ordinance regulations governing land subdivision. Such regulations shall include standards for laying out subdivisions and may require the installation of improvements and the dedication of land for public purposes in harmony with the comprehensive plan.

Subdivision plats shall be subject to approval of the city planning commission on recommendation by the planning director and public works and utilities department. The commission may withhold approval of a plat until the public works and utilities department has certified that the improvements required by the regulations have been satisfactorily installed or until a sufficient bond guaranteeing installation of the improvements has been posted with the city. The city council may provide procedures in the land subdivision regulations for appeals by any person aggrieved by any action of the commission on any plat.

For the purposes of regulating subdivision, the council may delegate power to the planning director to approve specific types of such subdivision and may empower him to waive the plat requirements under stated conditions.

The provision of this section shall govern and apply notwithstanding any existing provisions of this charter to the contrary. (Amendment of May 15, 1990; prior Amendment of May 9, 1978; effective July 9, 1978; prior amendment of March 3, 1959).

Sec. 12. Advance Acquisition Fund. There is hereby created a working capital fund to be known as the advance acquisition fund, the purpose of which shall be to facilitate the orderly and timely acquisition of real estate for public purposes. The net proceeds from any sale or exchange of real estate owned by the city shall be credited to this fund, and the fund may also be increased by general fund appropriations, or proceeds from general obligation borrowing. Monies in the fund may be used to option, purchase, make down payments, and take other actions necessary to acquire real estate for public purposes. No purchase of any real estate or any expenditure in connection therewith shall be made from this fund unless given prior approval by resolution of the council.

Any department of the city may build up against the advance acquisition fund credits equal in amount to the amount that has accumulated in the fund as a result of the sale of property which was under the jurisdiction of that department.

Any real estate purchased or otherwise acquired by the city through the workings of this fund may be sold or otherwise disposed of if the council by resolution determines that such real estate is not needed for a public purpose of the city government, provided that such property shall be sold or otherwise disposed of in accordance with the provisions of Article II, section 1, paragraph 5, of this charter. (Amendment of March 3, 1959).

Sec. 13. Powers of Planning Commission. All power, duties and rights of the city planning commission or planning director under this article shall be as provided in this article, notwithstanding any existing provisions of this charter to the contrary. (Amendment of August 27, 1962; effective May 20, 1963).

ARTICLE X

HUMAN RIGHTS

Sec. 1. Discrimination Prevention. It is hereby declared to be the policy of the city of Lincoln to eliminate and prevent all forms of discrimination because of race, color, religion, sex, or national origin, and to assure equal opportunity for all citizens of the city. All persons, regardless of race, color, religion, sex, or national origin, shall have equal enjoyment of, and equal protection under, all the provisions of this charter and all ordinances, resolutions, rules, regulations, orders and directives adopted pursuant thereto. (Amendment of May 10, 1966).

Sec. 2. Commission on Human Rights. The city of Lincoln is authorized to establish a commission on human rights to effectuate the declared policy of the City of Lincoln, and the organization, powers and duties of the commission shall be established by ordinance. (Amendment of May 10, 1966).

ARTICLE X-A

COMMUNITY HEALTH ENDOWMENT

Sec. 1. Separate Fund Established; Investments Authorized. There is hereby established a separate fund to be known as the Community Health Endowment which fund shall consist of the cash proceeds realized by the City of Lincoln from the sale of Lincoln General Hospital on October 31, 1997 (less any reasonable and necessary expenses incurred subsequent to such sale arising out of or relating thereto) together with any interest or other investment income earned by the endowment. The endowment may be increased by donations, bequests, or appropriations to the fund. Monies in the fund shall be used for the purpose of funding health and health-related programs or projects which further the health, safety, or welfare of the citizens of the City of Lincoln, and for no other purpose.

Notwithstanding any other provision of this charter to the contrary, all monies of the Community Health Endowment shall, to the extent permissible under state statutory and constitutional law, be invested in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. (Amendment of November 3, 1998).

Sec. 2. Community Health Endowment; Board of Trustees. The city council is authorized to establish a board of trustees whose responsibility it shall be to administer the Community Health Endowment, to review and authorize expenditures therefrom in accordance with an annual budget as approved by the city council, and to invest the moneys therein in accordance with the requirements of section 1 of this article. The

specific organization, powers, and duties of the board of trustees shall be as established by ordinance. (Amendment of November 3, 1998).

ARTICLE XI

Sec. 1. When Charter in Force. This charter shall become effective at the end of sixty days after its ratification by the voters of the city.

Sec. 2. Purpose of Catchheads. The catchheads appearing in connection with foregoing articles, sections, and subdivisions of sections, are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this charter.

Sec. 3. Effective Date. The change in the form of government contemplated by this charter amendment, as submitted to the qualified electors on November 6, 1962, shall occur on May 20, 1963.

The city of Lincoln shall remain vested with and continued to have, hold, and enjoy all property, rights of property, and rights or actions of every nature and description now pertaining to this municipality, and it is declared to be the successor of the same. It shall also be subject to all the liabilities that now exist against this municipality.

All valid city ordinances, resolutions, orders and regulations in force at the time this amendment takes effect, and not in conflict with its provisions, shall remain in force until amended or repealed.

At the time this amendment takes effect, the mayor shall have all the powers, duties and rights conferred upon him by Article IX, Article IX-A, Article IX-B, and by any other provisions of this charter. (Amendment of August 27, 1962, effective May 20, 1963).

STATE CONSTITUTION

ARTICLE XI - MUNICIPAL CORPORATIONS

Sec. 1. Subscription to Corporations Prohibited. No city, county, town, precinct, municipality, or other subdivision of the state shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association.

Sec. 2. Charters, Submission. Any city having a population of more than five thousand (5000) inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a convention of fifteen (15) freeholders, who shall have been for a least five (5) years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be within four (4) months after such election, to prepare and propose a charter for such city, which charter, when completed, with a prefatory synopsis, shall be signed by the officers and members of the convention, or a majority thereof, and delivered to the clerk of said city, who shall publish the same in full, with his official certification, in the official paper of said city, if there be one, and if there be no official paper, then in at least one newspaper published and in general circulation in said city, three times, and a week apart, and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified voters, voting thereon, shall ratify the same, it shall at the end of sixty days thereafter, become the charter of said city, and supersede any existing charter and all amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification (together with the vote for and against) and duly certified by the city clerk, and authenticated by the corporate seal of said city and one copy thereof shall be filed with the Secretary of State and the other deposited among the archives of the city, and shall thereupon become and be the charter of said city, and all amendments of such charter, shall be authenticated in the same manner, and filed with the Secretary of State, and deposited in the archives of the city.

Sec. 3. Same Rejected; Subsequent Submission. But if said charter be rejected, then within six months thereafter, the mayor and council or governing authorities of said city may call a special election at which fifteen members of a new charter convention shall be elected to be called and held as above in such city, and they shall proceed as above to frame a charter which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated may be repeated until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the Secretary of State as aforesaid, and a copy thereof deposited in the archives of the city, whereupon it shall become the charter of said city. Members of each of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city.

Sec. 4. Charter, Amendment; Convention. Such charter so ratified and adopted may be amended, or a charter convention called, by a proposal therefor made by the lawmaking body of such city or by the qualified electors in number not less than five percent of the next preceding gubernatorial vote in such city, by petition filed with the council or governing authorities. The council or governing authorities shall submit the same to a vote of the qualified electors at the next general or special election not held within thirty days after such petition is filed. In submitting any such charter or charter amendments, any alternative article or section may be presented for the choice of the voters and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon a charter convention shall be called through a special election ordinance, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, as provided in section 2 hereof. The city clerk of said city shall publish with his official certification, for three times, a

week apart in the official paper of said city, if there be one and if there be no official paper, then in at least one newspaper, published and in general circulation in said city, the full text of any charter or charter amendment to be voted on at any general or special election.

No charter or charter amendment adopted under the provisions of this amendment shall be amended or repealed except by electoral vote. And no such charter or charter amendment shall diminish the tax rate for state purposes fixed by act of the legislature, or interfere in any wise with the collection of state taxes.

Sec. 5. Charter of city of 100,000; home rule charter authorized. The charter of any city having a population of more than one hundred thousand inhabitants may be adopted as the home rule charter of such city by a majority vote of the qualified electors of such city voting upon the question, and when so adopted may thereafter be changed or amended as provided in Section 4 of this article, subject to the Constitution and laws of the state.